

EXHIBIT 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3

4 IN RE MICROSOFT CORP.)

5 ANTITRUST LITIGATION.)

6)
7 this Document relates to:)

8 Burst.com, Inc. Vs.)

9 Microsoft Corp.,)

10)
11 Civil Action No. JPM-02-cv-2952)

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COPY

12
13
14 VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION

15 OF

16 JIM ALLCHIN
17
18

19 9:13 A.M.

20 JUNE 17, 2004

21 925 FOURTH AVENUE, SUITE 2900

22 SEATTLE, WASHINGTON
23

24 DIANE M. MILLS, Washington CCR License #2399
25

12:04:25PM 1 A. Well, they're probably a set of class libraries
12:04:29PM 2 that exist that let you do images and sound and -- and movies
12:04:37PM 3 and that sort of stuff that Java was creating -- I'm sorry,
12:04:41PM 4 that was part of the Java framework and that Intel was
12:04:48PM 5 somehow supporting it. But I really don't know.

12:04:52PM 6 Q. Okay. Now, you had recommended to Mr. Gates and
12:04:55PM 7 Mr. Maritz that Microsoft support AMD in its 3DX efforts?

12:05:01PM 8 A. Yes.

12:05:01PM 9 Q. And Mr. Gates responds back and says, well, if
12:05:04PM 10 Intel has a real problem with Microsoft supporting AMD then
12:05:10PM 11 Intel would have to stop supporting Java Multimedia.

12:05:13PM 12 Have I read that correctly?

12:05:14PM 13 A. You did.

12:05:14PM 14 Q. So there's really a quid pro quo here proposed that
12:05:20PM 15 specifically Microsoft, contrary to your recommendation,
12:05:23PM 16 would not support AMD 3DX if Intel stopped supporting Java
12:05:32PM 17 Multimedia?

12:05:32PM 18 A. You'll have to ask Bill, but my view is Bill was
12:05:37PM 19 just ranting a little bit. I was -- honestly, I was going to
12:05:42PM 20 ignore him on his rant and that's what I did.

12:05:45PM 21 Q. Do you know if this -- if this bargain, if you
12:05:48PM 22 will, was essentially struck?

12:05:52PM 23 A. We proceeded on. I supported these instructions.
12:05:58PM 24 And the answer is no, there wasn't any bargain struck.

12:06:01PM 25 Q. At some point did you ask Intel to stop supporting

1 Java Multimedia?

2 A. Jim Allchin?

3 Q. You personally, yeah.

4 A. No.

5 Q. Do you know if somebody did?

6 A. I don't know personally.

7 Q. Have you heard anecdotally or through secondhand
8 sources that somebody did? And the reason I ask is your --
9 your caveat "personally."

10 A. Again, you'll have to ask Bill. I mean, I --

11 Q. Did you have -- I'm sorry, I didn't mean to
12 interrupt you.

13 A. I'm done, I'm done.

14 Q. Okay, fair enough.

15 A. I don't -- I don't have knowledge of it.

16 Q. That's all you need to say, Mr. Allchin. If you
17 don't -- if you don't know you don't know, that's a perfectly
18 fine answer.

19 Do you have an understanding of why Bill Gates
20 wanted Intel to stop supporting Java Multimedia?

21 A. I don't -- again, ask Bill, but I think it wasn't
22 so much the Java Multimedia as their work on Java in general.
23 And he's just mentioning the Java Multimedia stuff here, and
24 even saying the Java work, you'd have to be -- think about
25 what it is that, you know, was in his mind. I'm not sure.

12:17:47PM 1 Q. And once you -- as we started with today, once you
12:17:50PM 2 include Java with NC, then you do have a platform threat?

12:17:55PM 3 A. If you extend the class libraries broadly, not just
12:17:59PM 4 Java per se.

12:18:01PM 5 Q. And was it, given that platform threat that,
12:18:06PM 6 Microsoft wished Intel to cease working on the NC?

12:18:12PM 7 MR. TREECE: Object as overbroad.

12:18:13PM 8 A. You're going to have to ask Bill. I don't know.
12:18:23PM 9 (Deposition Exhibit No. 11 was marked for
12:18:24PM 10 identification.)

12:18:24PM 11 Q. (BY MR. HOSIE) Let me show you what's been marked
12:18:25PM 12 as Exhibit 11, Mr. Allchin. I'm going to be asking you about
12:18:45PM 13 the top of the paragraph on the second page under the heading
12:18:48PM 14 Java.

12:19:45PM 15 A. (Witness reading document.) Okay.

12:19:46PM 16 Q. Do you recall a meeting with Intel's senior
12:19:52PM 17 managers in October of 1997?

12:19:54PM 18 A. No.

12:19:55PM 19 Q. Do you believe you would have attended that?

12:19:57PM 20 A. No, I might not have.

12:20:00PM 21 Q. Do you remember seeing this e-mail before?

12:20:02PM 22 A. No.

12:20:08PM 23 Q. On the second page, sir, Mr. Brumer -- am I
12:20:15PM 24 pronouncing that correct?

12:20:16PM 25 A. Brumer.

REPORTER'S CERTIFICATE

I, DIANE MILLS, the undersigned Certified Court
Reporter and Notary Public, do hereby certify:

That the testimony and/or proceedings, a transcript of
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proceedings were by me stenographically recorded and
transcribed under my supervision, to the best of my ability;
that the foregoing transcript contains a full, true, and
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given and occurring at the time and place stated in the
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interest in the event of the cause.

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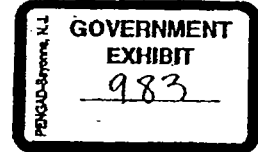
EXHIBIT 2

From: Bob Muglia
 Sent: Tuesday, October 01, 1996 9:56 PM
 To: Developer Tools Strategy; Peter Kukot; Patrick Dussud; Brad Levering; David Stutz; Victor Stone; Ben Slivka; Adam Bosworth
 Subject: FW: Think Week (Long!)

fyi...

bob

From: Aaron Contorer
 Sent: Monday, September 30, 1996 12:37 PM
 To: Bob Muglia
 Subject: FW: Think Week (Long!)



It is my understanding that this issue falls entirely under your group, but please let me know if there is any way I could help, or any people I should talk to to better understand this for Bill.

-----Original Message-----
 From: Bill Gates
 Sent: Monday 30 September 1996 11:25 AM
 To: Aaron Contorer
 Subject: FW: Think Week (Long!)

This scares the hell out of me.

Its still very unclear to me what our OS will offer to Java client applications code that will make them unique enough to preserve our market position.

Understanding this is so important that it deserves top priority.

-----Original Message-----
 From: Adam Bosworth
 Sent: Sunday, September 29, 1996 2:09 PM
 To: Aaron Contorer
 Cc: Bill Gates; Gary Burd; Brad Silverberg; John Ludwig; Ben Slivka; Bob Muglia
 Subject: Think Week (Long!)

I think it is important to understand that Java is not just a language. If it were just a language, it would not be a threat to us. We would and could easily just build the best implementation of this language and be done. It is, however, much more. It is an alternative to COM. Now I realize that this is, even for me, a provocative statement. I'm going to try to back it up. First I'll use some examples and then discuss the issue in a slightly more wide-ranging fashion.

Examples:

When listening to the Denali folks explain to various Web-masters why it doesn't run on Unix, I hear the statement that COM isn't on Unix. Ignoring whether this is or isn't true, Java is on Unix and requires no dealing with setup, install, de-install, or anything else. Thus it is really easy to understand how a system for dynamically authoring Web pages on the server that depended upon Java objects rather than COM ones would have wider appeal. In Trident I'm asked how the local Dataset gets brought across the wire. I answer dataSource controls and can demo this. But, it assumes that some piece of code is permanently available on my machine to do ODBC. I'm asked why I don't just read the data over the wire using JDBC. I answer that I want to and will. Why? Because the JDBC class can be dynamically loaded, executed directly against the wire format coming over the same wire (Java is good at this, the right classes are there), and then discarded. No install. Nothing sitting in my registry file. Works on any platform. So the fact that JDBC can be loaded across the wire essentially makes it a wire level protocol as far as I'm concerned in as much as I never need to keep custom code on my machine that talks to a specific wire protocol. Next, let's consider authoring a calendar control. Up to now I've been telling folks that COM works here and Applet's don't because I want to be able in Trident to sink the events of the control like DateChanged fired when the user clicks on the control and COM provides an architecture both for me sinking the events and for a RAD tool discovering what these events are and Applet's don't. This isn't true anymore. With LiveConnect I can simply pass in a script function in my page as a parameter of the Applet and the Applet can fire it. Or with JavaBeans, I can easily write one extra property in the Applet (EventSink) set my one new method SetHandleEvents, and then when I want to fire the event I just write a single line of code this.EventSink->DateChanged(NewDate). (The syntax may be slightly off). To implement the same think in our OLE Controls, I must allocate a connection point container, add a connection point, add a pointer to the sink to the connection point, marshall the arguments into the form that the Invoke method of the IDispatch interface expects, and then fire it. This is actually quite a lot of hard code which provides no runtime benefit in real life. Thus it is a lot harder and bigger to write than

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the Java equivalent. Sure we could use the same architecture from C++, but that's the point. This is an architecture, not just a language. Another example. We were told that it would be easy to write controls in Java. It was just a language. Well, considering the importance to us, I'd assume if it were easy we'd be doing it by now. But as of this writing, there isn't even clear agreement about how you will write such a thing because the Java folks are afraid/embarrassed to expose the raw plumbing to the Java programmer because it is so much harder than the Borland Javabeans alternatives. So right now we have nothing. I literally cannot write today a calendar control in Java that will fire events to my script in Trident. Netscape is shipping today a browser that can. This cannot stand and, if it does, obviously I'll be forced to support LiveConnect with great speed in Trident because the alternative would be that Netscape would interact better with Java Components than I do.

General Issue:

A key general issue that Gary Burd is better equipped to explain than I am is that Java has a competitive advantage in simplicity of implementation precisely because the architecture isn't language neutral. They have brilliantly used the language to solve problems where we must (in C++) write lots of explicit code to do what essentially amounts to runtime plumbing and this code is hard to write and hard to understand. This shows up in every facet of the language. Indeed, the way to sink events in AWT is still simpler. You subclass the appropriate method of the object. Period. No wiring. JavaBeans has taken this to a new level by adding equivalents to our TypeInfos and our EventBinding ConnectionPoints that are lightyears simpler to implement and will almost certainly run a lot faster because they are essentially not overhead. All of these benefit from the fact that the objects can be dynamically loaded and don't require install/setup and you have only to look at Office to understand what a total nightmare Setup is for us at this point. This single fact, dynamic loading without setup/install/registration conflicts is alone a major asset for Java. The next issue is the classes. Java people have a zeitgeist which mandates that widgets built in Java run anywhere. This may limit them (no direct draw), but at the end of the day they do have access to a bitplane in AWT and many of them have simply written all their controls at that level bypassing all the slowness and inefficiency of the rest of AWT and using the bitplane as a universal portable layer. This works. This is what BOngo from Marimba and the forms that NetScape bought from a spin-off of the Nextstep folks and others are doing. At the same time, AWT 1.1 is about to come out and it is, by all accounts, a lot faster and better than AWT 1.0. We cannot fight this with complex classes that only work on Windows 32 bit platforms alone. We must also be the best provider of these AWT classes and the ones who then quietly offer "extensions" that do realize either the power of Windows (DirectDraw) or of Trident, but in ways that seduce rather than collide. We must acknowledge that Java competes with COM in order to understand what to do about it, not just put our heads in the sand. And we must actually go the last step and make certain that it is really easy to build dynamic extensions to our frameworks whether they are Denali or Trident using Java even if that means doing it differently than we would for C++. This doesn't mean just making it easy to put Java behind a Trident Page to construct a component as Bobmu is planning with Trics. It means also making it easy to build components in Java that either have nothing to do with Trident (they extend Denali) or just extend Trident but don't reuse it like DataSourceControls or sliders or ChartControls or animatedart.

Concerned
Adam Bosworth

From: Aaron Contorer
Sent: Friday, September 27, 1996 12:55 PM
To: Adam Bosworth
Subject: re: memos you are writing

Best is to email them to both me and Bill.

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If in time, I will include paper printout in to-read stack, which increases probability Bill will get to them promptly. But even if not in time, Bill says he's quite interested so I'm not worried that he won't read them soon.

I apologize for the quite short notice for this Think Week. I know you are super busy.

-Aaron

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Subject: RE: A new text idea...

Based on the discussions we had with the Trident guys on Wednesday (of David and Alex were present at those meetings), the impression that I got from the Trident32 team was that they are very open to doing what NIA needs. We discussed how multiple views can be implemented, and we briefly touched on the topic of common Text services for other components like charts, etc.. We agreed to meet again and discuss further. Of course it was not clear yet whether NIA can do all the things it wants to do using Trident32, and exactly for that reason we are going to meet with them few more times. I have scheduled a meeting from 12:15 to 1:45PM tomorrow to discuss this stuff.

In today's review with Brad, he made it very very clear that NIA should be the number 1 driving client of Trident, and of course he wants only one Trident effort.

So I think, we should make every effort to figure out how NIA can be built using Trident32 and what needs to be added to Trident32 to make it happen. In that process if we hit road block, then of course we have to consider other options.

Jon: I think things will move much faster, and also the discussions with Trident32 folks will get more focused on making NIA work, if Brad sends mail to them telling exactly what he told us.

-- Sini

-----Original Message-----

From: David Bangs
Sent: Thursday, May 22, 1997 9:33 PM
To: Sini Koppolu; Richard Wolf
Cc: Alex Mogilevsky; David Bangs; Jon DeVaan
Subject: A new text idea...
Importance: High

Alex and I are frustrated by the current "Text" options available for NIA. Trident in Java has the disadvantage of being in Java, being too aggressive, and lacking the support of management. BillG, etc. only want one Trident. Trident32 is monolithic, and aren't willing to do enough architecture work necessary to support NIA. (NIA may be able to be cobbled on top of Trident 2, but remember - this is the future of Office and architecture is very important.) Unfortunately, we're being asked to choose in a rush so we can have a coherent plan for the BillG review on 5/30.

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Here's a plan AlexMog and I came up with that might be nice. Trident 2 goes forward as planned by Christian, exposing its "editor helper" component that helps manipulate the tree for common operations like "toggle bold", "indent", and "paste." With the help of a Quill developer (KeithCu) - they take Line Services and start adding cool stuff like kerning - that will help make HTML a richer canvas to author to.

In addition, we ask Trident to expose its backing store (tree structure, etc.) to the degree that someone could build an alternative view on top. This means there is a rich eventing model that helps that view know what text to update.

NIA uses Trident's regular view in "Web View" but creates its own piece called "DocView" to implement its other views.

DocView is based on Quill stuff and code stolen from Trident and Office. It provides the "WebText" editing services so text can be flexibly edited anywhere. It relies on Trident for HTML parsing, scripting, Java VM support, persistence, etc. It only has to view.

It doesn't have to reach total Netscape compat in NIA 1 - but does have to be compat for anything NIA create, and a nice cross-section of other stuff.

It should eventually reach IE 5 compat so it can become the standard viewer for IE 6. Once it does, we will have achieved a world where anything NIA can author can be browsed.

(If IE would never take all of DocView, at least they could take the WebText part for text

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compat.)

Benefits:

NIA could use the WebText services for any text editing anywhere.
Trident would become more componentized without the risk of taking WebText for IE6.
NIA could be fully implemented in C++.

Cross-Platform: Once our view and the browsers' view are the same - it will get ported to all the platforms that support our browser. We should share a common cross-platform strategy as Trident - which should involve an abstraction layer. Quill currently has an abstraction layer.

Does this seem interesting to you? Can we talk about whether this makes sense for NIA?

If this makes sense, perhaps I can mention this alternative as part of the Trident BillG review.

--David

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EXHIBIT 3

From: Ben Waldman
Sent: Thursday, November 13, 1997 3:24 AM
To: Jodi Granston
Subject: FW: Can you do the Mac Office 98/IE 4 launch event at MacWorld?

Latest status. I am following up on the Java stuff with both Steve jobs and Bill to try to get this worked out.
Ben

-----Original Message-----
From: Christine Turner
Sent: Wednesday, November 12, 1997 6:38 PM
To: Bill Gates
Cc: Christine Turner, Don Bradford, Ben Waldman
Subject: RE: Can you do the Mac Office 98/IE 4 launch event at MacWorld?

Bill, as discussed, we could make it work for you to be in San Francisco January 6. January 7 would be possible, but would require canceling an all-day Product Strategy Review meeting.

This is reminder to discuss further with Ben/Don before you commit.

-----Original Message-----
From: Don Bradford
Sent: Friday, November 07, 1997 12:54 PM
To: Bill Gates; Ben Waldman
Cc: Christine Turner
Subject: RE: Can you do the Mac Office 98/IE 4 launch event at MacWorld?

We're still working the Java relationship. Steve Naroff has taken over Java and Apple and is interesting in collaboration with both our current java effort and future COM+ work. Apple and Steve Jobs in particular are working to improve IE's position in public events. There is also renewed interest in using our HTML ActiveX control within the Finder. Do you have other data?

Don

-----Original Message-----
From: Bill Gates
Sent: Friday, November 07, 1997 10:53 AM
To: Ben Waldman
Cc: Christine Turner, Don Bradford
Subject: RE: Can you do the Mac Office 98/IE 4 launch event at MacWorld?

I need to check on two things:

1. My schedule
2. Our IE/Java relationship with Apple

JAVA is the biggest threat to us and I certainly shouldn't be doing Apple events unless we are getting some help from us on this.

-----Original Message-----
From: Ben Waldman
Sent: Friday, November 07, 1997 5:58 AM
To: Bill Gates
Cc: Christine Turner, Don Bradford
Subject: Can you do the Mac Office 98/IE 4 launch event at MacWorld?

Well, I guess you're ahead of me on this one, but just to make sure everything is clear, I want to provide you with more info and see if you are willing/able to do the launch of Mac Office 98 and Mac IE 4 at January MacWorld (the date is probably Tues. Jan. 6, or Wed. Jan. 7). Sorry this is late, but I wanted to see if Steve Jobs would participate before I asked you, so that I could provide you with a better idea of what possible scenarios would be.

As you know, January MacWorld will be the most significant event in years for our Macintosh business (and maybe the most significant ever again), as we launch Mac Office 98 and Mac IE4. Your participation in the launch would guarantee that we would reach a far broader set of users, customers, and press than we would otherwise, and also make a strong statement about Microsoft's support for Apple and the Mac.

MacWorld has said that they would reserve a keynote address for you if you were willing/able to do it. I feel a bit uneasy about turning a keynote into a launch event, so there would have to be a larger theme, of which the product launches were

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a part. The theme, I think, would be something like MS made a bunch of commitments in August, and now we are delivering on these commitments, in a big way. (Note that we have not made any progress in our Java discussions – Apple just put a new team in place, and there have been some organizational changes on our side as well).

After I asked Steve to participate, and he agreed, his head of corporate communications met with Jodi Granston (Mac Office marketing lead) to discuss how they could fit into our launch plans – they are very excited about the product. Apple is envisioning a scenario where you and Steve would share a keynote, which would focus on the progress Apple and MS have made together since last summer. Then, they see you and Steve doing joint interviews with top tier business press, with others (me, Don, etc.) following up with other press. That night, there would be a joint Apple/MS party. We'd also work with MacWorld magazine to get the cover of the show issue.

I think we need to find out more from Apple on what they envision the event being (i.e. how is a joint keynote different from an MS keynote where Steve participates), in order to make sure that it's not the "steve show" where he trots out lots of partners (including Oracle), and we get 10 minutes.

So, we will wind up with either a joint keynote with Apple, or our own event (do you have a preference?), but either way, would hope you can do this (if you can't, we won't get a MacWorld keynote, and would do a smaller event, with a much smaller audience and less attention). I am thinking that you would give a broad overview (industry trends, our history with Apple, etc.), discuss our commitment to the Mac, and perhaps talk about the goals of the products, and then we'd do the demo (ever since we started this project, I've had a picture in my mind of how the launch event would begin – before we did anything else, we'd just boot Word 6, show how it's slow, then boot Word 98, show it's faster, and then say "OK, now that that's out of the way, we can begin.")

I would think that if you can do this, there would also be momentum to come up with some more agreements that could be announced at the event (Java perhaps, a statement of our support for their NetMacs, etc.)

Do you have an idea of when you'd be able to say yes or no? – with either answer, we have a lot of planning to do before the event.

Also, I'm not sure that I have communicated to you that there is a lot of excitement about Office 98 – all our analyst/influential tours went very, very well (all thought we were doing the exact right things, and that we were doing far better than they expected), and customers have given us great feedback. If we can get Word performance where it needs to be, I think we will have a very successful product (Word perf is not good enough yet, we are still working very hard on this).

Thank you very much for your consideration –

BenW

—Original Message—

From: Bill Gates
Sent: Wednesday, November 05, 1997 2:58 PM
To: Christine Turner
Cc: Ben Waldman
Subject: FW: Apple update

Lets find out the date for this Macworld and see if its easy to do.

—Original Message—

From: Don Bradford
Sent: Wednesday, November 05, 1997 2:42 PM
To: Ben Waldman; Dan Neault; John Ludwig; Jim Allchin (Exchange); Greg Maffei; Bill Gates
Subject: Apple update

several quick items:

- steve jobs would like to have billg join him for the keynote at MacWorld/SF to launch office and macie. [ben suggested this during our meeting with steve's staff]
- several people from jmall's team (dan neault, jawad khaki and frank artale) and i are meeting with steve, avi, jackie linder (owns NetMac) and joe sokel (own's rhapsody server) on 11/11 to discuss apple's nc strategy and nt. apple is considering office and ie/oe as the cornerstone products – we should schedule a follow up to discuss office (annuity model?) if this meeting goes well. by all reports apple is losing interest in Rhapsody as near term server solution; focusing on NT and looking for revenue in selling an Agent Pack for NT. apple's enterprise focus is now split between publishing (Macs/G3) and replacing terminals(NetMac). i'll get more info on this friday.
- steve used IE to introduce apple's online store to apple's board this morning and will be announcing it during the G3 launch using IE.

Don

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EXHIBIT 4

From: Jim Allchin (Exchange)
Sent: Monday, January 06, 1997 1:43 PM
To: Rob Short; Moshe Dunie; Mark Lucovsky; Lou Perazzoli; Frank Artale; Steve Madigan; Deborah Black
Subject: FW: overview slides for Billg/NC&Java session with 14+'s on Monday

fyi,
jim

From: Paul Maritz
Sent: Sunday, January 5, 1997 11:09 AM
To: Bill Gates; Jim Allchin (Exchange); Ben Slivka; Brad Silverberg
Cc: Aaron Contorer
Subject: overview slides for Billg/NC&Java session with 14 + 's on Monday

Here is draft of slides for Billg to use on Monday pm. I will introduce with first slide, hand over to Billg, then have Jimall (or designee) present on ZAW, Bens on Java, then we will do Q&A.

We should probably discuss these topics at Monday am Exec Strategy session, since there are fair number of issues, particularly wrt Java.



nc & java 12-96a.ppt

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NC & Java Challenge

Jan 6, 1997

- Agenda:
 - Overview: Billg
 - "ZAW" Overview: Jimall
 - Java Efforts Overview: Bens
 - General Q&A

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Key Platform Challenge

- NC & Java are platform challenges:
 - possible emergence of a set of API's and underlying system software that lead to lesser or no role for Windows
 - puts our other (server & apps) businesses at a disadvantage

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Scenario: Emergence of a new API

- Sun AWT provides base cross-platform API
- Navigator/NetOne provides:
 - additional API's
 - a volume platform for ISVs & Corps to target, since runtime gets shipped with Navigator
- NC's
 - could provides additional volume
 - have no MS system software involved

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Response summary

- Increase IE share
 - integrate with Windows
- Lower TCO:
 - “Zero Admin Windows”
 - Office improvements
- Take HTML & Java Leadership
 - Extend HTML
 - Offer best Java runtime & tools
 - enough x-platform to be competitive
 - integrate Java RT & Windows:
 - encourage access to unique Windows functions
 - performance
 - great Java RAD tools

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Responses: increase IE share

- **Situation:**
 - approx 15-20% market share, most of it on W95 platform
- **Key strategies in place:**
 - **Competitive product:**
 - IE3 good, but missing Mac, W3.1 (being filled in next 2 months), UNIX slipping
 - Differentiate thru Windows integration
 - **Get Websites to target:**
 - Sitebuilders/logo program starting to work
 - little compelling unique content, MSN exception
 - **Content offers (WSJ, ESPN):**
 - good (250K sign ups, logo on sites), but not decisive

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Responses: increase IE share

- Key strategies, contd.:
 - Channels:
 - ISP's: have signed most up, but conversion only starting to happen:
 - AOL 650K downloads to date
 - predict 5m users by 3/97
 - OEM: missed June deadline, OSR2 not shipping on majority of machines yet
 - Corporate: mixed results
 - still large Nscp momentum
 - threat from Communicator

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IE share issues

- Shipping IE4
 - Does it go into next W95 release?
- Converting existing Nscp users
 - ISP bounty program
 - creating compelling reason for W32 users?
- Corporate share:
 - IE4 benefit
 - Communicator response
 - how to position combination of IE & Outlook as response
 - how to actually manage future evolution of IE & Outlook
 - how to use / position "Web connector" feature of Exch 5.0
 - Renewed major corporate campaign?

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Java runtime as a Platform

- Key strategies:
 - encourage (extended) HTML use
 - keep Web content people viewing HTML (plus scripts) as safest "LCD"
 - encourage use of Dynamic HTML (Trident)
 - Java:
 - Offer "standard" Java runtime to be competitive,
 - basically redistribute whatever Sun gives us in near term
 - Expose as much of Windows as we can to Java developers via extensions to AWT
 - Ship the best Java RAD tool(s)
 - with extensions to language where we can

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Java Issues

- Getting our VM/Tools used
 - ie. increase IE share
 - Getting our VM/runtime to work with Navigator
- Getting RAD tools shipped
- Mac/Unix support for IE & extended HTML (Trident)
- Relationship with Sun
- "HTML as LCD" impacts strategy to position Outlook as client for collaboration:
 - ie. Is safest way to develop forms/groupware is to do it as Exchange server side script ?

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TCO/Simplicity & NC

- ZAW / NetPC is our primary platform response
- Goals:
 - Dramatically reduce “cost of ownership/complexity” for users:
 - initial focus on corporate, connected scenario's
 - Key concepts:
 - automate/eliminate “change” wherever possible:
 - eg. OS/applications installation/update
 - use centralized storage wherever possible
 - centralized administration
 - work for “laptops” too

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TCO/Simplicity & NC

- Secondary response
 - Deliver lowest “hardware cost” solution via Hydra
 - Windows “terminal” support

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TCO/Simplicity & NC

12.

- Issues:
 - Delivering on ZAW
 - ZAW is delivered on NT5.0
 - requires upgrade first
 - lack of Win95 story
 - Applications (esp. "Office") participation
 - when/how do we deliver it?
 - How do we deal with "down-level" OS's
 - continued complementary relationship with Citrix

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EXHIBIT 5

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6399

Tel 206 882 3030
Telex 160520
Fax 206 931MS FAX

Microsoft Memo

TO: FY98 WWSMM Attendees
FROM: Jeff Raikes¹
DATE: April 22, 1997
RE: FY98 Planning Memo
CC: Bill Gates, Steve Ballmer

Introduction

We are on track for a very successful year in FY97, driven by Win32 momentum, Windows NT Server and BackOffice revenue growth, and a successful Office 97 launch and desktop applications growth. We are achieving exceptional profitability, and excellent performance across the customer units and PSS.

But major competitive obstacles and challenges lie in front of us for FY 98. The Network Computer (NC) and the Java operating environment – led by Sun, Oracle, IBM, and Netscape – is making a big push to displace Windows. Corel is spending aggressively against Office and has met some success in small business and retail. Lotus Notes is outflanking Exchange in many customer segments and is benefiting from IBM's corporate might. Oracle has quickly focused on Windows and appears to be outselling SQL Server on the NT platform. While Novell is down, they are not out and have good directory services technology.

To win against this tough competition, we must drive healthy growth in our "traditional businesses" (Windows, Office, Windows NT) and crush the NC threat. At the same time, we must invest in and position ourselves to be the premier platform for business applications development, and drive the use of SQL and Exchange as the key building blocks. We must win the battle for Intranet and Internet applications.

To deliver on this strategy and position ourselves for future opportunities, we will be adding headcount for geographic growth and customer unit focus:

- > We are creating a new Applications Developer Customer Unit to target Oracle, Notes, and Unix developers. ADCU will provide tremendous leverage by driving NT into corporate IT infrastructure, and as the platform for our customers' line of business applications (LOB).
- > We have restructured Public Network Sales (PNS) and IDCU into an Internet Customer Unit to better serve our partners and customers in this space.
- > We will extend our account coverage to companies with greater than 1,000 PC's. This investment in "breadth LOGs", supported by the development of solution provider partners and structured sales cycle, will eliminate a competitive disadvantage.
- > We will increase our partner recruitment & development focus on competitive partners (SUN, Oracle & Lotus Notes) and build strength with custom application firms and ISPs. We will achieve strong reach and frequency to value-added partners (VAP's).

These enhancements to our organization should enable us to better meet the competitive challenges ahead of us. The last page of the memo is an appendix, sharing SteveB's WWRDM overview of our customer unit focus, activities, and measurements. They are further refined and described in the appropriate customer unit memos. In this memo, we'll look at the evolution of the key customer scenarios, the competitive challenges, and our goals for FY98.

¹ Rosa Garcia, Craig Bruya, and Lori Moore prepared extensive contributions to this memo.

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Selling the Platform

Windows is facing its biggest competitive threat since inception. If the NC is successful, it will mean a catastrophic downside in Windows revenue, our server business, our tools business, and our applications business – i.e. NC's threaten the heart and the body of our company. This is more than just an OS battle. This is about Windows clients, Windows servers, Windows tools, and Windows applications. If Microsoft technology is relegated into "yesterday's technology" in lieu of the Java operating environment and Java apps, Microsoft loses.

We must sell our platform. We must sell across customer segments, from small business to the largest enterprises. We must sell across partner segments, reaching from retailers to VAP's to solution providers to strategic integrators and other enterprise partners, with special focus on partners of our competitors. And we must sell to the influentials that drive bottom-up demand: end-users (IEU's), developers, and IT professionals. We are making evangelism to the influentials a high priority in FY98 and we'll include specific metrics in the business reviews as a way to ensure marketing efforts are focused on them.

Paul Maritz's memo will overview the product group investment in our platform. In FY98, we will introduce versions of the Windows NT Server platform. These help us more effectively package our technologies for the needs of customers segments; small business, departmental usage, and the demands of the largest enterprises. *But the core products we must promote and sell remain the same: the Windows client, Office, Windows NT Server, SQL and Exchange.*

The Customer Scenarios and Our Competition

Customers and partners make it clear to us that we must do a better job tailoring our message for any given customer scenario. We must sell the entire Microsoft platform as a competitive advantage, incorporate Total Cost of Ownership (TCO) and Total Value of Ownership (TVO) messages in every sale, and promote partners that have developed services and solutions on, or with our platform that address our customers' needs.

Our thinking on customer scenarios has evolved. Let's look at the key scenarios and our competitive challenges.

Infrastructure. NTS and BackOffice depend upon the support of IT professionals and SP/VAPs for good architecture and deployment. They are under great pressure to deliver the lowest cost of ownership for IT (TCO), while making sure the IT investment will support all the business value (TVO) required to compete in today's economy. Their perspective includes the range of issues – the cost of hardware and software acquisition, replacements/upgrades, software distribution, interoperability, network and user management. We should not lose on total cost of ownership comparisons.

The NC threat, the desire of Sun and Oracle to promulgate Unix, the desire of Novell to transition to networking services (NDS) are all serious attacks on Microsoft as a technology provider for IT infrastructure. Customers will be reluctant to change. The integration of our platform – unified directory, security, application set-up and management – and the ability to interoperate with their existing investments are critical to success. We must clearly demonstrate our advantages, articulate the cost savings and increased value through the use of our products.

Personal Productivity. Our success with Office 97 requires that we move end users to a 32bit platform and demonstrate the value proposition that these new technologies offer to end users. We must convince customers that Office97 offers them important new improvements in features and functionality, and that these can be realized while addressing TCO issues. Customers cannot forget the total value offering our Office suite offers in a world where competition is trying to demonstrate that no one needs the features we are adding to Office. Our competitors will also leverage NC interest, and promote "thin client" productivity.

Corel and Just Systems continue to out market us in the retail space. In addition, piracy continues to threaten our revenue stream and short term growth. Customer inertia prevents our customers from realizing the productivity gains they could achieve by upgrading to a 32bit application. We must clearly demonstrate the excitement and benefits our technology can deliver to the broad range of Office productivity users, and help them pick the right solution for their needs (Office Pro, Office SBE, Home Essential, Works, etc.).

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Communications. E-mail is the fastest growing application category in both the business and consumer segments. Internet and intranet publishing is exploding. We face tough competition in this market. Lotus is offering strong products with Lotus Notes and Domino, creating a dangerous bridge between mail, workgroup and Internet publishing and using their well-known high-end groupware capabilities to cover a poor messaging system. They are also achieving great success with LOGs, MORGs, and developers. Netscape is using its browser leadership and server products to drive revenue from the enterprise. In addition, they will try to convert their consumer browser share into substantial revenue stream with Communicator.

Microsoft will address this market with IE 4.0 as the base free client. We will use Outlook Express (included in IE 4.0) to attack Netscape Communicator. Outlook will be the client with high value-add features such as offline support, better views, customization and richer authoring services. Exchange and IIS will be our recommended infrastructure. If the client needs to develop workflow applications or high-end groupware apps, you need to add SQL to the platform and recommend Visual Basic as the programming development tool. Remember that you must sell the full Microsoft platform as an advantage against our competitors and try to avoid direct Exchange vs. Notes confrontation for business applications.

Operations - Line of Business Applications. Our largest new revenue opportunity will come from selling the platform for line of business applications. The new ADCU group will assume a leadership role in evangelizing the benefits of using our tools, SQL and the NT platform to a broad set of developers including solution developers and customer application developers. SQL Server must become the preferred database server to be successful against Oracle.

Total Oracle database licenses revenue will grow about 30% in FY97 to \$2B. Oracle has more than 50% NT database server share this year. Their strength with consulting, vertical applications, Unix support and scalability put them in an enviable position with the 7000 LOGs they manage. They have a huge field sales team with a strong focus on Solution Developers and vertical industries and they run more than 30% of units through developers. They are being very aggressive in ramping up a distribution channel to cover the SMORG market by trying to recruit and train our Solution Providers.

It is imperative that we convince solution developers to port their applications to our platform and jointly market these solutions to our enterprise accounts. We must communicate crisply and consistently by industry, by target customer size and by business process, all the available solutions from our Solution Developer partners so that our customers have breadth and depth of application choices on our platform. OCU must build a channel to allow SDs to distribute their apps. Toward this end, recruiting Oracle's partners is a top priority.

Data Analysis. We can help our customers get the right data working together to make better-educated decisions. To make it happen, data analysis will require a comprehensive understanding of data management, system architecture and technology. It ranges from data transformation to statistical analysis to data mining and to visualization.

MS will address this market using SQL on the backend, IIS for publishing and Excel/Access for front-end analysis. MS Sales is a great example of how our tools come together for this scenario. Oracle is our main competitor but SQL Server is making some inroads and is now used for nearly 25% of all sites implementing data warehousing solutions. In late 1998, we will incorporate OLAP technology from Plato that should provide us with a more solid technical base. Before the implementation of this technology, we will face some technical difficulties in meeting all our enterprises' expectations. For this reason, we need to work with partners such as Digital to create comprehensive service packages for designing and deploying datamarts more quickly than competition.

Knowledge Databases. These are the systems that allow the company to make every piece of knowledge available in an easy way to every employee that needs it. They maximize the effectiveness of training, research and sales processes. Examples include Self-Service Online Learning, Technical Knowledge Bases (e.g., PSS KnowledgeBase), Online sales catalog (e.g., Infobase), Marketing Research Databases, and Document Management systems. Our technology to more effectively support this scenario, will come together over the next couple years. In FY98, we will address the customer needs by working with the right partners, such as Saros with Mezzanine, Interleaf, FileNet, Eastman Software, and others.

Internet Electronic Commerce. By FY2000, business-to-business transactions should grow by a factor of 100 and online retail sales are expected to soar tenfold. This creates an immense opportunity to have our platform software support this e-commerce tidal wave. Our software will provide online vendors with fraud-resistant ways to handle everything from dispatching goods online to setting credit card transactions via BackOffice links to banks. Shoppers will be able to buy things by transmitting an encrypted digital ID.

We have made some progress, particularly with standards, by working with companies such as Verisign (services to prove merchant/shopper identities online), and MasterCard and Visa (SET standards). In FY 98, we will launch our Internet server that will include Merchant Server, but that is only the beginning. We will leverage ADCU to learn more about product needs, and to work with our customers and partners in developer e-commerce solutions.

Non-Work Usage. As more people around the world use a PC for non-work purposes, Microsoft has as a goal to provide the most satisfying computer experiences at home and at school. The consumer software market has evolved as a highly fragmented and financially challenging business for all vendors. Each consumer category has its own unique set of competitors: Inuit, IBM/ World Book, Disney, Logitech, Electronic Arts, CUC and others that vary by region. We need to beat them all with great products, focused and leveraged marketing, and great channel execution.

While specific tactics will vary from market to market, common tactics include:

- Aggressively push Windows/IE and DAD products, particularly to influential end-users (IEU), and in K-12 and universities.
- Out-execute competition in gaining retail presence, particularly during the holiday season where we have the heaviest consumer spending on the non-work categories.
- Create end-user and channel excitement around the launch of key new products (Memphis, Home Essentials, selected EMD and CID products)
- Make supply chain management a success – get in-stock on the key titles and ensure replenishment. Respond quickly to changes in demand.

Aside from the small teams with known responsibilities, subs should spend little or no time on our core online offerings (MSN, Sidewalk Local Information Guide, Expedia, MSNBC, MS Investor).

Resources

As we evolve our strategic direction and tactics to better respond to the marketplace, we must remember we do not have unlimited resources – we need to focus them on strategic functions in every subsidiary. You should redeploy 1%+ of your resources (some subsidiaries will be able to redeploy as much as 5%) and discuss your redeployment efforts during the FY98 scrub presentation. As mentioned earlier, we will invest in sales and marketing headcount so that we can get ready to address new businesses, new technology, and cover new customers/channels. I have categorized resource additions into 6 buckets:

- **Geographic Expansion** – new headcount in countries with more than 40% growth.
- **Geographic Growth** – more cities in established geographies.
- **Breadth LORG focus** – discussed in ECU memo.
- **Application Developer Customer Unit** – discussed in ADCU memo.
- **New Technology Areas** – the headcount here will be to cover major technology areas such as e-commerce.
- **Partner Coverage** – for the few subsidiaries that believe that they do not have enough headcount to cover the value-added partner channel (VAP's or what SteveB sometimes call FOO-VARs), or reaching out to custom application developers and ISP's, or competitive partner recruitment. Our OCU channel development is a great asset and to grow it, the business reviews will include reach and frequency metrics for VAP's and targets for depth partner additions.

Goals

1. **Achieve revenue goals**
 - Overall FG revenue should grow at least 15%. BSD growth will lead at 45%+. DAD should grow 10%+ in most countries. PSD revenue will drop off in many countries, but the decline should be no more than 12%.
 - We expect PC growth of about 17%, and we would expect OEM revenue to grow at that rate or a little better. We will be more aggressive in the Windows NTW bundling, and some of our apps bundling.
 - Continue strong anti-piracy campaigns and Select audits.
2. **Achieve profit goals**
 - Every subsidiary will get a P&L target from their regional management. As SteveB shared with us at the Worldwide Regional Directors Meeting, we will make invests in headcount in FY98, but we will not allow WW responsibility margin to decline by more than one point. You must invest in key areas strategic for the future of our company and at the same time identify in your business plan areas of efficiency gain or cost saving that help further our new investments.
 - Improve marketing efficiency. Marketing as a % of net revenues will remain about the same in most countries, but develop marketing tactics that achieve more for your money.
 - Target MCS to breakeven with 10% investment hours.
 - PSS. Maintain flat support cost %. Improve the quality of service for key segments, and but we expect this investment to be offset with cost reductions due to increased acceptance of self-help, product improvements, and higher cost-recovery.
 - Target efficiency gains in operating expenses. Some regions such as Europe have done a good job while other regions must start joining in.
3. **Win against the Network Computer – Sell the Windows platform.**
 - Leverage our evangelism efforts to reach a significant percentage of, and win the hearts and minds of influential end users (IEU's), developers, and IT professionals. Drive their enthusiasm for Windows, Office, NT, and our development platform. Build your database and set metrics for contact through a combination of broad-reach events and seminars.
 - Drive Win32 penetration of installed base to 65%+.
 - Drive Windows NT server share to 50%+.
 - Successfully launch IE 4.0 and Memphis and create end-user and channel excitement. Increase Windows sales through retail to at least 35% of Windows FG.
 - Achieve 51% total IE share across platforms (Windows, Mac, Unix)! Get 60% IE deployment share and 50% IIS deployment share in the ECU accounts. Publish many significant design wins and references.
 - Launch BackOffice Small Business Edition ("SAM"), quickly develop broad distribution among VAPs, and develop a worldwide business exceeding \$50M.
 - In those countries with a focus on the Education market, continue aggressive sales and marketing of the Windows platform and our applications as a way to secure customer loyalty from a new generation of users, encourage migration from Macs, Novell, and Unix, and discourage adoption of NC's.
4. **Grow Office business and market share**
 - Maintain or grow share in all markets.
 - Leverage the TVO/TCO and migration tools, and drive deployment in the ECU space. Achieve 70%+ license share (i.e. 70% of ECU Office desktops should be licensed for 32bit) and 50%+ deployment share (of which half or more should be Office97).
 - Drive up Office revenue per PC for MORGS and SORGs. Leverage the VAP efforts to drive up the number of active resellers and increase DSP application bundles.
 - Defend our Office business from Corel at retail. Reverse any share losses. Increase productivity revenue per home PC. Make Home Essentials a major success in every geography where available.

5. **Win with SQL Server and Exchange, and development partners**
 - Reverse our SQL share losses, and achieve 60% unit share. Strive to achieve 60%+ revenue growth and 20% attach rate, but for revenue planning purposes will be more conservative (40% revenue growth and 10-15% attach rate to NTS).
 - Target Exchange revenue growth of 40%+.
 - Win 75%+ of Exchange messaging infrastructure battles in ECU accounts. Drive deployments and achieve 35% of ECU desktops licensed, and 20%+ deployment.
 - Plan tools revenue growth of 10%+, but stretch to achieve 20% increase. Secure 50% primary usage share of VJ++ in Java market, secure 35% primary usage share for VB in professional tools market, and increase Visual Studio to at least 15% of total tools revenues, and expand the MSDN subscription base.
 - Grow your SQL development partners. Recruit top Oracle partners. Build these relationships such that 80% of Solution Developers view Microsoft as a better partner than Oracle or IBM.
 - Grow your Exchange partners for messaging deployments and application development. Recruit top Lotus Notes partners. Evangelize Exchange as an applications platform such that 30% of Notes SDs/Business Partners ship native Exchange applications by FY 2000.
 - Evangelize the Windows & Back Office architecture such that 75% of Depth SDs and 50% of Breadth SDs adopt all of its components for their key applications by FY2000.
6. **Interactive media titles, and gaming and input devices**
 - Tier 1 countries should show IMD revenue growth of at least 20%, and higher in those countries with greater than 20% market growth.
 - Grow revenue and share in our mouse and keyboard businesses, particularly with the Intellimouse as our FPP prices decline – and grow revenue on games input devices. Hardware division revenue should grow 20%+ (excluding Actimates, a real wild card that is hard to forecast).
 - Grow our Encarta business to leading share where we have localized the product
 - Promote high-potential games and establish Microsoft as the leading games vendor, as this is the largest product category in the consumer market and the one with the most repeat purchase
 - Other priorities will vary by region based on localization decisions communicated to you market-by-market.
7. **Extend customer satisfaction**
 - Reverse any slippage in PSS customer satisfaction – recover the FY96 customer satisfaction levels for free support and continue growing satisfaction in the rest of the paid offerings.
 - Achieve premier customer satisfaction of 80% very satisfied.
 - Increase overall ECU worldwide customer satisfaction from 15% to 20% extremely satisfied and 90% somewhat satisfied. Increase MCS Customer satisfaction by 10% over FY97.

Success Factors

Competitive focus. We have excellent competitors and we need to understand them completely. Among the things we must know are their overall strategies and product positioning, their revenues in every country, the channels they are tapping to deliver products and services, and the amount of marketing dollars they are investing. We should adopt their best practices, learn from their mistakes, attack their weaknesses and force them to react.

Sales readiness. All subsidiaries mentioned that they had a sales and support readiness problem. There are many new technologies, and the subsidiaries just don't have enough time to prepare their people so that they can intelligently discuss issues with customers before products hit the market. Setting up the processes and approach to improve this situation is a top priority for SteveB. If successful, it will help drive early adoption, share, sales, internal morale and customer satisfaction.

Clear messages, well published. Information publication and training are large problems for the company overall. We need to determine the appropriate content, form, authorship and audience for information and training materials. We've taken steps in the right direction with Infobase 97 and Microsoft.com, but much more must be done if we are to successfully communicate our messages both internally to our people and externally to our customers and partners.

Efficiency. We need to minimize bureaucracy and ensure that all actions are designed to have a direct impact on the customers, partners or competitors at whom they are directed. We need to continue sharing information, resources, and procedures so we gain efficiencies. Before you start budgeting for the next FY, please check all your procedures and actions, address the root causes of inefficiency, and advise us of changes at Corporate in order to help you gain efficiency. The less time we spend on bureaucracy, the more time we can spend in contact with customers.

Partners. Another great way to increase our efficiency is to enable our partners to work with us in addressing the broad range of customers and their needs. We need to make sure that we have done a great job in knowledge transfer, that partners can articulate our strategy, that the quality of their customer care meets our standard, and that their services exceed (or at least meet) customers' expectations.

Customer care. We are committed to continuing improvements in customer service in every department. ECU has developed a plan to increase customer loyalty by measuring and increasing satisfaction. PSS noted problems in FY97, and is working to find the right balance between reducing cost, using outsourcing, and increasing customer satisfaction. MCS is targeting an increase in client satisfaction. Partner satisfaction requires similar attention.

People. We must be able to attract, develop, and keep great people. Have hiring plans to bring in great recruits, particularly technical talent; this is critical for MCS, SE, ADCU and Cluster 4 PSS groups. Have sound development plans for our people that balance business needs with employee development goals. And to keep our great people, make Microsoft an outstanding and fun place to work.

Success in FY98

We really do have exceptional people around the globe. Their talent and relationships with our customers and partners are the foundation of our success. Thank you for your hard work and leadership. Inspiring our people to build on this foundation will lead to further success in FY98.

I look forward to seeing you at the WWSMM and hosting you for our Global Summit in Orlando, Florida USA.

CUSTOMER UNIT FOCUS, ACTIVITIES, & MEASUREMENTS

Customer Entity or Partner	US Quota	CU/Org	License Type	Drive Activities	Participate in Activities	Measurements
Log-depth	1500	ECU	Custom	1:1 mgt, Eval's, Exec, EPM, Enterprise SP recruit	SSC, ISB, SP, IT sems, Devt Sems	Design Wins, Contact reach
Log-breadth	5000	ECU	Custom	Partner follow up, Oppt. Calls, Multi-acct, Build DB	SSC, ISB, SP, IT sems, Devt Sems	Design Wins, Contact reach
Morg	400,000	OCU	MOLP	SSC, SP Recruit, Build DB, Reseller co-mktg/mgt	ISB, Devt Sems, IT sems	%SSC, #Pilots, # Partners, Contact reach
Sorg	400,000	OCU	MOLP	Breadth reach/freq (sems, mail, phone), Build DB, SORG association speeches, Anti-piracy, Dist mgt	DSP mgt, Devt Sems, IT sems	Sem Reach/freq, Non sem # customers, freq of purchase
Sd-depth	300	BADCU	PIP	1:1 mgt, Benchmarks, Joint mktg plan/Sales calls	Devt sems	Design Win status, Share, Contact reach
Sd-breadth	3,000	BADCU	PIP	Joint mktg, Light mgt, Multi-acct, Oppt joint calls	Devt sems	Design Win status, Share, Contact reach
LOB mgr/IT	450,000	BADCU	NA	ISB's	LORG calls	ISB's attendees, SIA's, SD cover
Home/SOHIO/EU	250	CRCU	FPP	Retail mgt, EU events (store, user group, PC)		Share, In-stock, Stores/SKU
ISP's depth	250	ICU	License	1:1 acct mgt, Referral server, Exec events	IT Sems	Design win Status
ISP's breadth	5,000	ICU	MOLP	DM/EM, IE license, Build DB	Breadth reach/freq, IT sems	% signed up, Contacts reached
ICP's depth	250	ICU	License	1:1 acct mgt, Active Desktop	Devt sems	Design Win status
OEM depth	50	OEM	License	1:1 acct mgt, Exec		MDA Status, apps status
OEM breadth	100,000	OEM	DSP	Build DB, Phone/Email, DSP mgt, Monitor selling, AP	Breadth reach/freq	Freq of purchase, # customers
IEU's	15,000,000	Desktop PM	FPP	Advertising, DM/EM, Build DB, IEU Events		Contacts seeded or sem attendee
Developers-Pro	4,500,000	BADCU	FPP	Advertising, DM/EM, Build DB, Devt sems, PR		Sem attendees, Visual Studio sales, MCS's
Developers-Ad hoc	3,000,000	BADCU	FPP	Advertising, DM/EM, Build DB, Devt sems, PR		Sem attendees, VIB/Off Dev Sales
IT People	7,500,000	SE's/BSO PM	NA	Advertising, DM/EM, Build DB, IT sems, PR		Sem attendees, MCP's (NTS/SE)

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EXHIBIT 6

From: Marshall Brumer
Sent: Monday, January 20, 1997 2:49 PM
To: Paul Maritz
Cc: Mike Porter; Kay Barber-Eck
Subject: RE: Intel and JavaMedia [Was:FW: Java Gets Boost With MMX (PC Week)]

Kay scheduled this for 1/23. I'll bring Mike Porter, who is driving the agenda on our side, and we'll discuss then. Thanks.

--- Original Message ---

From: Paul Maritz
Sent: Monday, January 20, 1997 1:31 PM
To: Marshall Brumer
Cc: Kay Barber-Eck
Subject: FW: Intel and JavaMedia [Was:FW: Java Gets Boost With MMX (PC Week)]

Marshallb - we should get few minutes in next day/three to go over Intel meeting agenda next week.

Amongst other things we should ask them to give us "honest" account of what they are doing below, and what they hope to accomplish.

--- Original Message ---

From: John Ludwig
Sent: Saturday, January 18, 1997 8:48 AM
To: Brad Silverberg; Paul Maritz
Subject: FW: Intel and JavaMedia [Was:FW: Java Gets Boost With MMX (PC Week)]

it sure feels like more than 4 guys. they are doing a good job puffing themselves up

--- Original Message ---

From: Russ Arun
Sent: Friday, January 17, 1997 4:03 PM
To: Ben Slivka; John Ludwig
Subject: FW: Intel and JavaMedia [Was:FW: Java Gets Boost With MMX (PC Week)]

From: Kate Seekings
Sent: Friday, January 17, 1997 3:13 PM
To: Cristiano Pierry; Eric Engstrom
Cc: Russ Arun; Charles Fitzgerald
Subject: Intel and JavaMedia [Was:FW: Java Gets Boost With MMX (PC Week)]

Key points from the article in blue below, comments follow:

- The SDK is a joint collaboration of Intel, JavaSoft, Apple Computer Inc. and Silicon Graphics Inc., said Chris Rotvik, marketing manager at IAL, in Hillsboro, Ore.
- Delivery of SDK 1.0, expected by the end of March, is contingent on JavaSoft's completion of an updated set of Java APIs, Intel officials said. The APIs will contain the multimedia instructions set forth by Intel.
- Intel's foray into Java development may result in a crop of Intel-based network computers running native JavaOS and applications, as well as forthcoming NetPCs running Java applets alongside Windows.
- The SDK is part of a larger IAL initiative, called Intel Media for Java, charged with developing Java multimedia components alongside those developed for ActiveX.

As it is targetted at the end of March, we can expect that the Intel SDK will cover: Java Media Framework, JavaTel,

Java3D (based on 3DR at the moment), almost certainly 3D spatial audio and video (RDX, RSX), and maybe JavaShare. Intel has a bunch of technologies in house/experience with our technologies that have enabled them to quickly implement these specs on the Win32 platform and get them out of the door. They may even have been able to do implementations of all the JavaMedia APIs, which would be particularly grim.

Although our beta is coming out at the end of Feb, our mm story will not be complete by then. We really do have to ramp up work on our cross-platform story too: the other Java Media partners won't be hanging back with their implementations either.

I will be talking with Intel early next week and will keep you posted. We need to bring them into the fold and get them excited again about DirectX media and DirectX foundation - despite the directive from Intel management about working better with MS in this space, it is clear that they intend to keep their feet firmly in both camps. The fact that much, if not all, of JavaMedia will be out there on our platform already by sometime in March is not good...

K

Kate Seekings
<http://www.microsoft.com/java>
 Tel: 206 703 0675
 Fax: 206 936 7329

--- Original Message ---

From: Dawn Zeh
Sent: Wednesday, January 15, 1997 10:59 AM
To: Internet Client and Developer News
Subject: Java Gets Boost With MMX (PC Week)

Summary: PC Week reports that as it boosts the performance of Windows-based multimedia applications via MMX, Intel Corp. also is working to juice up Java applications on its new CPUs.

Intel Architecture Labs is readying an SDK for Java developers that contains multimedia instructions specific to its new Pentium Processors with MMX Technology, officials said at the MMX announcement here last week.

Intel's foray into Java development may result in a crop of Intel-based network computers running native JavaOS and applications, as well as forthcoming NetPCs running Java applets alongside Windows.

News from your Library -

Java Gets Boost With MMX (PC Week)

From PC Week for January 13, 1997 by Lisa DiCarlo in San Francisco

As it boosts the performance of Windows-based multimedia applications via MMX, Intel Corp. also is working to juice up Java applications on its new CPUs.

Intel Architecture Labs is readying an SDK (software development kit) for Java developers that contains multimedia instructions specific to its new Pentium Processors with MMX (multimedia extension) Technology, officials said at the MMX announcement here last week.

Java applications--which will contain Intel-defined multimedia instructions--will recognize MMX processors and will execute functions more efficiently.

The SDK is a joint collaboration of Intel, JavaSoft, Apple Computer Inc. and Silicon Graphics Inc., said Chris Rotvik, marketing manager at IAL, in Hillsboro, Ore.

Delivery of SDK 1.0, expected by the end of March, is contingent on JavaSoft's completion of an updated set of Java APIs, Intel officials said. The APIs will contain the multimedia instructions set forth by Intel.

Intel's foray into Java development may result in a crop of Intel-based network computers running native JavaOS and applications, as well as forthcoming NetPCs running Java applets alongside Windows.

The SDK is part of a larger IAL initiative, called Intel Media for Java, charged with developing Java multimedia components alongside those developed for ActiveX.

"More developers are writing for Java and we can't ignore that," said Mike Aymar, vice president and general manager of the desktop products group at Intel, in Santa Clara, Calif.

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EXHIBIT 7

From: Paul Maritz
Sent: Wednesday, February 05, 1997 6:22 PM
To: Marshall Brumer; Aaron Contorer; Bill Gates
Cc: David Heiner (LCA)
Subject: send copies of Intel's processor roadmap slides over to Billg - attny/client confidential

Privileged



Intel 1/30 Roadmap,
Java/Manage...

From: Marshall Brumer
 Sent: Monday, February 03, 1997 11:04 AM
 To: Paul Maritz; Jim Allchin (Exchange); Moshe Dunie; John Ludwig
 Cc: Carl Stork; Lou Perazzoli; Deborah Black; Jay Torborg; Bill Veghte; Marshall Brumer; Mike Porter; Bob O'Brien; Ed Stubbs; David Cutler; Bob Kruger; Todd Needham; John Balciunas; David Williams (POSD); Barb Fox
 Subject: Intel 1/30 Roadmap/Java/Management meeting notes

Summary/Key Actions

We met with numerous groups at Intel/Santa Clara on Thursday 1/30 to cover Microsoft's Windows roadmap and Intel's CPU/Chipset/System roadmap and to discuss strategies for Java and TCO/Management. This meeting did not get hostile, rather both groups pointed out areas of concern that need focus in the coming weeks. Key areas that we will work on are 3D, Java Class libraries and overall management strategy and deliverables.

Intel's biggest concern from our presentations was the Memphis schedule change. It will take them some time to grock this and determine where they need to push back on MS. We should expect this to happen both at the working level and the executive level. We will be disclosing this schedule change to OEMs very soon.

Some folks on the CC line have AI's at the bottom of this mail others have areas of interest in the details below.

Details - NOTE: Treat all Intel schedule information as HIGHLY CONFIDENTIAL.

Windows Roadmap - MosheD

- Moshe presented our roadmap for the next few years. Main highlights were NT5 content, Memphis schedule and NT6 vision.
- Questions on NTC timing. We stated clearly that NTC as an overall product would probably be NT6 timeframe, BUT that we are already building in many of the same functionality from Memphis that would make NT5 a strong consumer level platform.
- FXSAV/FXRSTR questions - Intel wanted to be sure that we were still planning this for NT5. Answer is yes assuming solid HW testing prior to release.
- Discussion on Memphis schedule - Stated we are tied to IE4 release. Current IE4 RTW end of June. Approx 90 days to integrate. Target Q3/4 release for Memphis, no OSRs in between. We understand that we have missed the 6/30 OEM date and that will not make folks happy - hard choices to make.)

MPG/Chipset Roadmap - Fred Pollack

- IA32 Processor Line
- Klamath announce Apr/May at 233/266, no 200 since yields good at higher speeds (also cause they won't have to compete with PPro 200...)
- Intel believes that speed, mmx and 2xL1 cache will make Klamath/FX a strong platform. LX will be better with AGP, but not a showstopper to buy Klamath/FX.
- NT PPro/200 vs NT Klamath/233. 10-15% perf increase for Klamath, more on Win9x due to updates to 16bit code features.
- Intel is still concerned that we are not going to hit all their support needs for LX - mainly AGP (LX systems in September).
- P55C - Strong yields today. June announce of 233 part.
- Tillamook - Mobile P55C at 233 - 3Q97.
- Deshcutes - Announced at 333/350/400 in early '98. FXSAV/FXRSTR come out first on Deschutes.
- Katmai - Strong workstation solution at 450-500 in early '99. First complete MMX2 implementation.
- Coppermine - Katmai followon, new process. Announce around 600MHz early '00.
- Willamette - New IA32 architecture, MS needs to be briefed on this new technology - built in multithreading features.
- IA64 Processor Line
- Merced - Comes to market mid '99. The original will not be released, holding off for shrink (.18 micron) which will announce around 750MHz. Early silicon to MS 3Q98. Engaging ISVs today, planned ISV event in Q2.
- Moving forward, IA32 stays volume line and IA64 forms Enterprise line.
- Intel is working to grow a workstation focused division, seemingly under Gelsinger. This work is just now forming, we will sync up when more complete on Intel side. They are initially targeting work on cache, chipsets and motherboards to create workstation building blocks.

- On the server side, Intel is rolling a new chipset 450NX that will work direct with Deschutes. These will have 100MHz bus and 4 PCI Channels.
- Intel listed a number of areas that we worked on together that they appreciate our help on: MMX, cooperation on NT4, IA64, continuing work on initiatives USB, ACPI, AGP etc.
- Graphics
- MS postponed most discussion here pending understanding of issues by Paul/Jim et al from MM group. Note that our overall work with Intel is still on track.
- AGP - This is in LX chipsets for Klamath. We have development level silicon in both Memphis and NT groups. They believe that this will take 1-2 more silicon revs for completion and OEM systems production and launch in 3Q97 (OEM POR is September). Concern for our SW and for more AGP display adapters from their IHVs and their own internal Auburn silicon for us in the next few weeks/months.
- Talisman/Wizard - IP issue is close to being resolved with new wording. Windows Only is still a concern. Albert understands that we will discuss this in future meeting, but is concerned that he has folks working on Wizard and still has no license to do anything with the technology. Intel wants to see a USB/AGP approach to the Windows Only part of the agreement.
- LMC Agreement - We are almost closed on the Tiling agreement. Now concerned that we will still not be able to get full disclosure on Auburn (740GT is official name now) via CITA or some other simple process. We are working the general issue.
- D3D Source Code agreement - Work on this continues. Closure should come after internal meeting.
- MMX2 Support
- Intel wants to understand how to drive MMX2 feature support into Memphis followon (or NTC if this is the right place).
- This support ships in Katmai early '99. We need to determine what OS will be shipping for this and if there is logic behind supporting this feature. Key support needed for FXSAV/FXRSTR so that state can be saved by the OS (or else unable to use MMX2 on that system.) All other support will be in key libraries, not the OS itself.
- Further discussions will happen in ongoing technical meetings.

DPG - Dan Russell

- PC98
- Intel wants to announce joint authorship of the spec. Jim pushed back on this asking for real reason stating that there is nothing newsworthy here. Pat wants to be able to announce that MS/Intel have a common view here. Looks like this will be worked below Jim/Pat but should have some content to deliver at the time of announce. Debate will continue around need for this prior to WinHEC when we actually announce the specification and release for review by the industry.
- Intel asked for commitment to OS deliverables in the spec. We basically glossed over this in the discussion, but this will come up again and be a big deal since MS has historically not wanted to do this.
- Visual Computing
- We need to stay hooked together here both on the 3D side and the DVD side. Works continues on both.
- Optimizing Performance on IA Platforms
- Intel wants to drive MS to use VTune during development work here.
- Manageability/NetPC
- Dan brought up DMI instrumentation here. We pushed off till later discussions on management.
- IPCT
- Intel wants to see us supporting this more broadly. They are working at the technology level on Wireless, Intericast and AC97 and are looking for more support from MS on these. We are best engaging in Wireless since the other two are hotbeds of debate between MS/Intel. We are moving forward in both areas at MS though with BPC and WDM Audio work driving MS positions. We will continue to work to resolve issues between MS/Intel.
- General List of OS requirements from Intel (I have these slides for folks needing the gory details.)
- Dan provided a long list of Memphis and NT5 'requirements' for Intel technologies and products. We agreed that these are issues at the working level that are mostly known to the groups/individuals involved. New items noted.
- Memphis
- Kernel mode media services, AGP/3D, USB, Processor/Platform support, DVD and ICG products
- These span the following Intel products: VPhone 3.0, Proshare 3.0, HoodRiver, Klamath LX, CEG uC (USB microcontroller), Intericast and Landesk.
- New items - Processor Update Management (patching processor microcode). We will discuss this in upcoming Memphis meetings with Intel (both technical and management meetings).
- NT5
- NT Specific processor/platform support as well as areas noted in Memphis list above.
- IA64 specifics
- Intel wants to ramp our technical work and interaction on IA64. We are going to continue work as scheduled.
- Intel is looking to have an MS person engage on the ISV level so that we can support IA64 messages with key ISVs.

PaulMa pointed at ToddN to be this person.

- Intel wants to get more OEMs involved sooner. We agreed that their key partners could have access to the code for test/debug/validation, but would not be directly involved with MS on porting. Any specific porting work would need to be done direct with Intel. JBal is suppose to be driving access for these OEMs already.
- Intel is also pushing us to do a release based on their IA64 SDK and our tools support. We will continue to track this request.

WinCE - PaulMa

- Paul delivered a direct view of what we are doing with WinCE today. Discussed that we are working with an unnamed game console vendor and that we are working into the handheld pc, wallet pc and auto pc space.
- We clarified that this is not going to be an NC OS. Our NC answer is NT/ZAW and NetPC.

Java - JohnLu/Will Swope

- John ran down our overall Java strategy fairly quickly driving directly at our current issues to discuss with Intel. The below specifics are the areas that we can probably focus best on with Intel.
- Performance
- We are looking to Intel to help in this space. They are most interested in engaging here on study, tuning and optimizations that John requested.
- MM Libraries
- This is the area of most contention since Intel does not see their work with Sun and others as bad for the overall PC space, only as good for Intel. John will continue to engage on this one and Intel will continue to listen.
- Security
- They are most interested in engaging on the MMX optimization level here. Our past history here might be helped by some positive engagement in the security area.
- Both Swope and Gelsinger tried to drive home that they believed Java is the trojan horse that will allow Corporate IT folks to move their computing from the client to the server. We agreed that this would be a problem and again discussed their helping SUN on MM Libs etc that are helping validate work other than MS's in this space.
- Craig wants to see MS/Intel/SUN put all the class library work into the public domain. We said we could do some of this but not as completely as he sees necessary.
- Intel is staying focused on the class library work mainly because they want it to run best on IA if MS does not have this space covered well. They are already seeing that SUN is not delivering well here. We need to monopolize on this opportunity. Paul also asked that if Intel still feels that they must stay engaged with SUN, that they do it less visibly.
- Craig also asked that we be more open to accepting their work in media classes that we are not already working on. John agreed that we should at least spend some time evaluating these as they come up.
- As a closing to Intel's concern over Java allowing processing to migrate to the server, Intel asked us to engage on a program they are calling 'Native Java Initiative'. While we agreed the goal here is goodness, taking something like this public is a political mistake. We agreed to explore ways to make the Java IA/Windows experience best.

Management - Will Swope/JimAll (Steve Tolopka, Ed Ekstrom arrived and drove much of this for Intel)

- This discussion covered both Intel's wants and needs in this space and our actual work to date. We narrowed the discussion focus down to our main difference areas of how to actually incorporate the WfM spec into NetPC, how to get PCs that will ship this year to be compliant with NetPC and how to address Intel's DMI/CI layer in NetPC and our WMI/WBEM story.
- We agreed that there was work needed on both sides and that we would engage more in the next 1-2 weeks on the above main issues. JimAll has already begun this process and DanPi/VSee are driving meetings with Intel starting today.
- Main focus for now is how we get from systems that can ship in June 97 to systems that will ship June 98. Migration from today's DMI solution to WMI solution. Migration from no spec to 1.0 spec to June 98 spec.

Action Items

- Followup 3D graphics meeting based on MS internal meetings decisions - MikePo/MarshallB.
- Followup for AGP support based on latest Memphis schedule. This will happen as part of ongoing Memphis/Intel meetings - MikePo.
- Determine whether we need to announce PC98 work with Intel prior to WinHEC. Intel is looking for this to happen late February - MarshallB/DaveWill.
- Is MS using VTune - Yes on Memphis and NT groups. We will drive for more use and give feedback to Intel for improvement here - MikePo.
- Engage on IA64 ISV Level focus. We won't do a lot, but need to stay in sync so we don't trip up with key ISVs - ToddN with MikePo help.

- Engage Barb Fox and Intel MMX folks to tune our CAPI work for MMX - BFox with MikePo help.
- Followup on issues raised as below - MikePo/MarshalB.
- Our mutual view on broader computational model (keep processing on the client), thick/thin clients etc moving forward.
- How Java affects this model.
- We must do this work without looking defensive, we must show leadership in this space.

Attendees

Pat Gelsinger - DPG - now owns longer range platform initiatives (Aymar owns near term product/daily activities)
Dan Russell - DPG Platform Marketing - PC98, working with MS, plugfest style events, industry focus
Will Swope - DPG Marketing - Business desktops, NetPC
Jon Khazam - DPG - Graphics program manager
Albert Yu - MPG - Microprocessor Group
Fred Pollack - MPG - Product planning, platform architecture
Richard Wirt - MPG - CPU focused SW and tools
Jim Jacobs - MPG - Technical Asst to Albert
Daniel Lenehan - MHPG - Mobile and Handheld Group - Mobile platform architecture
Craig Kinnie - ICG - Internet and Communications Group (includes IAL, proshare, LanDesk etc.)
Ed Ekstrom - ICG - Systems management group
Steve Tolopka - ICG - Systems management group - NetPC driver
Gerald Holzhammer - ICG - Now manages IAL
Russell Barck - MS Strategic Account Manager
Frank Ehrig - MS Account Manager

MS: PaulMa, JimAll, MosheD, JohnLu, MarshalB, MikePo

EXHIBIT 8

From: Deborah Black
Sent: Wednesday, February 19, 1997 11:59 PM
To: Jim Allchin (Exchange); Paul Maritz; Moshe Dunie
Cc: Jay Torborg; Leif Pederson; On Lee
Subject: MM offsite summary

Greg Faust is sending an official summary and arranging a follow-up mtg in March, but this is my summary of the offsite. Dawn is delivering a set of the slides to each of you. The offsite was relatively low-key with the exception of a few lively discussions:

- **NT OS latency.** JimKajiya asserted that MM requires much lower latency than could be expected from NT, and proposed the solution was to use dual processors -- one to run NT and misc apps, the other to do MM. BillG strongly opposed.
- **Central control of audio & video streams from within OS.** Jim Kajiya proposal. Global resource mgmt: memory, scheduling, disk/cd caching. EricEng suggested that it should be done in ActiveX Animation. BillG, JimKaj & Nathan argued strongly that it belongs in the OS - not in AxA.
- **Talisman.** Jay presented the slides you've seen most recently and requested evangelism support. AlexJo (MM evangelist) voiced strong opposition to Talisman, and said that he couldn't evangelize it because of his opposition. BillG's direction on Talisman:
- We've invested a lot in Talisman and should follow through on it.
- We need to close the Intel issue - preferably with Intel as our key partner. However, we can not give in to Intel and allow them to ship Talisman technology on non-Windows systems. Key issue is preventing Intel to use Talisman w/Java VM.
- It's too early to do heavy ISV evangelism, but Jay should evangelize to top 5 ISVs once we have the Intel issue closed. Based on their feedback, we can modify message and take it broader once h/w is available.
- **Cross platform support.** BillG restated his position against porting DirectX foundation cross platform.
- **OGL/D3D.** Why are we competing with ourselves here? Need clear positioning. I told BillG that we are combining the driver models and will work on resolving the APIs next.

Additional ideas generated which we should investigate further:

- Is there some way to ship Talisman-like technologies in s/w prior to h/w availability so that ISVs can start to write their apps to take advantage of it today? This could potentially accelerate both ISV & IHV adoption. Seamus Blackley from Dream Works testified that he had made use of some of the Talisman ideas in s/w and it had proven extremely useful to him - we should look at licensing it.
- Nathan suggested we should link the DirectX Foundation APIs directly into our tools rather than through DirectX Media.
- Prioritizing audio streams?

Other BillG comments:

- DirectX Media -- Should part of this be included in SoftImage?
- Linda Stone's work in Virtual Reality. Can we put this into the platform to differentiate NT? Nathan said that there isn't really much there yet - he will know more 6 months.
- Caching -- we should put more IQ on this. Nathan has someone modelling it. We should understand what they have learned.

I'll ensure we follow through on all issues and ideas listed above (except BillG's comments re: Linda Stone VR & DirectXMedia within SoftImage). We'll also be engaging closely with Jim Kajiya's group in order to identify any other good ideas to bring into the platform to help differentiate our MM support.

Debbie

EXHIBIT 9

Case 1:02-cv-02952-JFM Exhibit # 67
 Deponent John V. Maritz
 Reporter JUDY ROBINSON
 Naegeli Reporting Corporation
 (800) 528-3335 FAX (503) 227-7123

From: Marshall Brumer
 Sent: Monday, February 24, 1997 10:51 AM
 To: Bill Gates
 Cc: John Ludwig; Paul Maritz; Kate Seekings; Christine Turner
 Subject: FW: Intel and Java Media

Importance: High

Below is very thorough mail from Kate Seekings PM in our Java group. She has covered all the relevant points for your call with Andy today.

At a hi-level, we are most concerned that Intel is helping one of OUR strongest competitors by supporting a scheme that allows first Windows to be replaced by JavaSoft work and then subsequently allowing Intel's x86 to be replaced by Sun CPUs for JAVA. Kinnie claims that the team involved with the below is very small. What is not factored into his statements is that there are many folks working on all of the Intel APIs that should be considered working directly on the Sun/Java collaboration.

Kate's recommendation to work closer with Intel is key. We have not done a great job convincing them that we are doing all the right things in this space. They also need to work harder to be open to our position and our efforts to work with them.

The attached docs are mainly for more background but probably not necessary for your call today.

—Original Message—

From: Kate Seekings
 Sent: Monday, February 24, 1997 10:37 AM
 To: Marshall Brumer
 Subject: Intel and Java Media
 Importance: High

Intel/Java Media history

Background:

I've included two docs below, one summarizing each of the Java Media component APIs and listing their MS equivalents, the other a spreadsheet showing the spec and release dates for each of the Java Media APIs and the same info for their MS equivalent technologies.

The Java Media specifications are being driven by Sun/JavaSoft, in co-operation with varying subsets of the following partners: Adobe, Macromedia, SGI, Apple, Netscape, Intel. Each of the Java Media APIs consists of a thin layer of Java APIs which the partners then implement on their respective platforms on top of existing system services and technologies.

Intel's involvement:

Intel is working with Sun/JavaSoft and partners on defining the Java Media Framework (JMF), animation, 3D and telephony APIs. They are providing implementations for Windows and Windows NT of Java Media Framework, Animation, and 3D. They are also attempting to drive JavaSoft to incorporate 3D spatial audio into Java Media at a faster pace than JavaSoft would perhaps otherwise proceed in this area.

Intel have worked most closely with Sun on the Java Media Framework (JMF). JMF has three parts; first, the Java Media Player (spec released), which looks very like ActiveMovie v. 1, the upcoming Java Media Capture (spec TBD, final implementation 1997), also reflecting ActiveMovie v. 1 functionality, and Java Media Conference (spec and release date TBD), which looks as if it will reflect NetMeeting's video conferencing capabilities.

Intel has also been working on technologies with which it hopes to influence the development of further Java Media APIs: an RSX 3D-based Intel Spatial Audio for Java Package, which implements a proposed extension to the Java Media Framework API, providing real-time, software-only rendering of 3D (spatial) audio, and the RSX-based Intel Animation for Java Package. The Intel Animation for Java package "has been made available as an intermediary step towards the

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release of the JavaSoft Animation API compliant implementation, and provides for motion and transformation of 2D objects. The Intel Animation for Java package will expire and will no longer be supported when the JavaSoft Animation API compliant version from Intel is available".

Finally, Intel have worked with Sun on Java3D (spec scheduled for release any minute). I heard unofficially from the Sun Java3D architects that Intel intend to deliver a Java 3D implementation based on 3DR or a derivative of 3DR.

They have a beta version of their Intel Media for Java SDK available for download today from their website that contains the Java Media Player implementation, and the Intel Spatial Audio and Intel Animation for Java packages.

Our interactions with Intel:

Before I started work in this area Intel had discussions with Russ Arun and Viktor Grabner re. ways in which MS might ship their Java RDX and RSX APIs. (Additional background: RDX and RSX essentially wrap DirectDraw and DirectSound). When I became involved it was decided that we would not ship these libraries directly, though to keep Intel happy, MS would make these libs available to download along with a collection of other Java class libraries and tools (including ODJ, DimensionX's Liquid Motion and Liquid Reality) as part of its 'shovelware' 3rd party class library gallery.

Yves Michali and I went to visit Intel Architecture Labs in November last year; I've included the trip reports (now a little out of date, but still useful for background) below. During the meeting Intel said that they are working with Sun in order not to be shut out of the Java process - if there is successful a Java OS they want it working well on Intel boxes - and also said that, by encouraging the Java Media partners to create an Active Movie-like JMF API it was doing MS a favour by preventing us/our technologies from being shut out of the Java Media process entirely.

We have stayed in touch with Intel while we have been formulating our own Java mm strategy, though as it is only solidifying now we have not yet given them details of our plans. My latest interaction with Intel was to attempt to arrange a meeting with the relevant Java Media people through Dave Landsman; Intel cancelled the meeting, saying that they were reconsidering their Java position and strategy in the light of discussions with John Ludwig. I will be following up today now that the respite they requested has passed.

While we do not like Intel co-operating with Sun, the most effective way we have to bring them back to the MS/Java fold is by demonstrating that we are creating a viable alternative to Java Media. We have an increasingly viable Java mm story: Intel should be encouraged to support and promote the technologies we will be releasing in this space, and to distance themselves from Java Media. Intel will express reluctance (it feels like 3DR all over again) as they are using Java Media as a means to perpetuate/breathe new life into their own failed mm APIs, but - as with 3DR - if we can demonstrate clearly that to work with us and our Java mm technologies is their only useful path, they will on the surface at least throw their weight behind us.

To do this, we need a stronger commitment from groups and management throughout MS to making our Java mm story the best there is - which means they must get acknowledgement from the top down that Java mm is a priority, and the resources to back it up.

Hope this helps, Marshall - any questions, flame on

K

Kate Seekings

<http://www.microsoft.com/java>

Tel: 206 703 0675

Fax: 206 936 7329



Java Media



Java Media API



TR: Intel

comparison.xls (18 ..summary.doc (26... Architecture Labs

EXHIBIT 10

From: Bill Gates
 Sent: Thursday, February 20, 1997 5:03 PM
 To: Jim Allchin (Exchange); Paul Maritz
 Subject: RE: AMD 3DX thoughts

I agree with all of your thoughts here.

If Intel has a real problem with us supporting this then they will have to stop supporting Java Multimedia the way they are. I would gladly give up supporting this if they would back off from their work on JAVA which is terrible for Intel. I have a call with Andy on this topic coming up on Monday.

-----Original Message-----

From: Jim Allchin (Exchange)
 Sent: Thursday, February 20, 1997 2:00 PM
 To: Paul Maritz; Bill Gates
 Subject: FW: AMD 3DX thoughts

AMD was here a week or so ago. They described their progress on the K6. It was an excellent meeting and they are making great progress. I will make a copy of the slides and get them to both of you.

During the meeting we discussed some new instructions that AMD wants us to support called "AMD 3DX". The instructions (about 24 new opcodes) are very focused to make games fast. They use single precision floating point vectors similar in form to the MMX instructions. They are very fast due to the vector nature, saturating operations (no weird overflow/underflows), and no exceptions or conditions codes. There is zero overhead mixing 3DX and MMX. Below is Mark's opinion from the meeting. I concur with everything he says.

Intel will want to stomp on whatever instruction they use to hide the 24 new opcodes. They are going to take a currently illegal instruction and encode all 24 instructions within it. And even though AMD will pick an instruction away from the MMX codes giving Intel expansion room (assuming Intel does MMX 2), Intel still might decide to "accidentally" use whatever instruction area they pick to hammer them. This is AMD's biggest fear. It might take a conversation with Andy at some point if Intel does decide to do this. By the way, AMD says they will give everything to Intel without strings so that Intel could support the instructions also.

I want to support them. Do you have an opinion?

thanks,
 jim

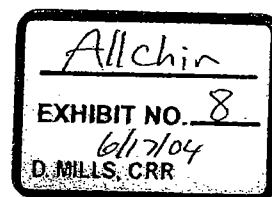
From: Mark Kenworthy
 Sent: Thursday, February 13, 1997 2:19 PM
 To: Carl Stork; Jim Allchin (Exchange); Moshe Dunie
 Cc: Jay Torborg
 Subject: AMD 3DX thoughts

As we look to the future of the non-server PC, it is clear that multimedia processing will dominate the processor usage, at least for the average end user. Technologies which provide better price/performance for PC multimedia are therefore a good thing that we should support. The 3DX instructions that AMD disclosed look like just the right thing to accelerate 3D graphics transform and lighting operations, although a detailed review by some of the Talisman graphics pipeline experts is in order.

I understand Carl's concern about incompatible instruction sets between competing CPUs, and believe we need to consider the possibility of this very carefully. If the average application is directly using these special instructions, I believe there is a significant risk to platform stability, since we have no control over the processor instructions, nor can we expect the average application writer to include processor specific checks. As such, I'm not thrilled to see AMD's plans to work with many companies to get these instructions into their applications, nor their request to include the instructions in MASM and VC.

Using these special multimedia instructions inside a driver, is also a bad thing. This will cause us (the OS) to lose control of the CPU for extended periods of time, especially with the future multimedia dominated applications. Also, the drivers they are supporting (3Dfx and Rendition), are outside of our DirectX and OpenGL APIs.

Using these special multimedia instructions inside our OS multimedia components, however, is a good thing. It will allow us to provide significantly better platform performance. We can regulate the CPU usage by these multimedia components, so we can ensure that the multimedia applications do not adversely affect the overall system operation or performance. DirectX 5 is partially structured to accept such processor specific optimizations in key routines. DirectX 6 will be more so. Our basic



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plan is to ship companies like Intel and AMD source to these key inner loop routines, for them to optimize. We then surround these optimized code segments with processor specific checks, so even instruction collisions will not affect us. I would expect that the OpenGL folks are on a similar course. So, this seems like a good and safe path.

The architectural issues also concern me. We are rapidly moving to a point where we can compute a heck of a lot more than we can move over PCI or even AGP to some graphics card. AMD clearly understands this, and I'm sure Intel does as well. The only viable solutions I can see is either what AMD described at the end of their talk today, where graphics moves inside the northbridge chip, or moving graphics inside the processor itself (which is where we suspect Intel is headed). Making either of these strategies work well requires a memory bandwidth efficient graphics architecture, which uses at least some of the concepts embodied in Talisman. Without such an architecture, the system will starve on memory bandwidth.

This is probably how Intel plans to achieve dominance in the graphics space. Once graphics moves inside the processor or the northbridge, it will be next to impossible for the small graphics chip companies to compete, since it is all motherboard down and highly integrated. Cards hanging off a bus will not have the CPU <-> graphics bandwidth available to compete, so they lose, even if they have superior graphics technology. AMD could be a valuable ally in keeping competition open in the graphics arena, besides the processor arena.

So, what I'd like to see us do is:

- 1) Discourage application and driver use of these special instructions.
- 2) Aggressively support these special instructions in our OS multimedia components (same with Intel's).
- 3) Work closely with AMD to get alternative graphics technology into their northbridge chip (e.g., Talisman).

This strategy maximizes our system multimedia performance, binds more applications to our OS multimedia components, and keeps healthy competition in place for both the processor and graphics components.

EXHIBIT 11

From: Marshall Brumer
Sent: Wednesday, February 26, 1997 8:27 AM
To: Mike Porter
Subject: FW: Intel and Java

fyi. johnlu did try and initiate here so we may see some fireworks based on us saying we tried and them saying they tried. bottomline is that we need to get the right folks in a room and discuss this.

--- Original Message ---

From: Bill Gates
Sent: Tuesday, February 25, 1997 9:39 PM
To: Paul Maritz
Cc: Marshall Brumer; Brad Silverberg; Jim Allchin (Exchange)
Subject: Intel and Java

I called Andy today to talk to him about our sensitivities about JAVA and asking what goal Intel has in working on JAVA. I told him we thought they were hurting themselves but doing any development other than just pure tuning things for Intel. I said it was the revival of 3DR and some cloning of patented interfaces.

He said he has 7 people working on JAVA and IBM has 1000. Even in the broadest definition he only has 70 people whose jobs at all relate to JAVA things.

He said Gelsinger made an offer when they went through what they were doing to have us tell them what they should be doing and that Ludwig had not sent anything in response.

Very quickly we got into a discussion of the whole JAVA phenomena. He thinks the role of IBM is the most interesting element here.

He also thinks we mutually need to do a better job competing with SUN. He had just had his people show him that their server revenue is the key to their strength. Intel wants to help out with scalability day in any way they can.

Grove finds the JAVA phenomena pretty amazing. He has his people meet for a day to discuss it and they came and explained it in 2 hours and he still found it murky.

Andy's offer was that he would get his best people together (3 to 4 total) and we would do the same and we could sit and talk about what is going on. He is going to check with a lawyer first to make sure its ok to have this kind of talk. Andy agrees that JAVA could strengthen IBM, SUN and others a lot and weaken both of us. He said he sees enterprise customers who are getting this message from IBM and they find it satisfying since they feel like it helps them keep their mainframes.

I told Andy I would take the action item to decide what to do next. I think a high level discussion with Intel might well be worth the effort since they have a huge impact on the market and see things we don't see and we will be able to influence their activity.

We can discuss this sometime in the next week.

EXHIBIT 12

From: Jim Allchin (Exchange)
 Sent: Wednesday, April 09, 1997 5:29 PM
 To: Bill Gates
 Cc: Paul Maritz
 Subject: RE: Intel - Grove meeting

Date 4/11/04 Exhibit # 60
 Case
 Deponent John Ludwig
 Reporter JUDY ROBINSON
 Naegeli Reporting Corporation
 (800) 528-3335 FAX (503) 227-7123

You mentioned a couple of things in your mail.

1. 36 bit. Below is some mail on this from Lou. I have not told the SQL team to think about it at all. We have so much work on our plate and SQL 7 is so important I just can't do this to them right now. They are getting pressure to think about VLM and pure 64 bit support. If they do a good job on both of these then it should be within reach if we need to do it.



36-bit physical
 memory support...

2. Intel absolutely knows about the May 20th event. Some of the machines for the 1BTPD benchmark came from them. They knew all about it. Furthermore, at the last Intel exec meeting in CA (last month I think), Paul and I discussed it. I did unhook them from the key vendor though for this demo since Compaq didn't have a key role and I felt I had to have a serious Compaq presence. I will talk to Rich about their involvement.

3. We met with Intel technical people yesterday. Dave came to see after the meeting. He said that now Intel is on board with going to pure 64 bit. There were still some things that Dave wanted to look at, but he was still in the camp of moving to it directly. We got Intel to begin checking in changes for this -- all code would be reviewed by someone here, but Intel will be onsite and doing the work. Before now, they said we couldn't check it in. We are now past this now.

4. WMI is in the NT 5 builds.

5. Regarding having Intel involved at looking at what is frustrating to end-users I am not sure what you are proposing. Who would we talk to at Intel? Is this a marketing task?

thanks,
 jim

From: Bill Gates
 Sent: Wednesday, April 09, 1997 1:28 PM
 To: Paul Maritz; Jim Allchin (Exchange); Brad Silverberg; Rich Tong; Jonathan Roberts; Bob Herbold; Joachim Kempin; Nathan Myhrvold; Craig Mundie
 Cc: Marshall Brumer; Aaron Contorer; Moshe Dunie; Jay Torborg; Cameron Myhrvold; Bengt Akerlind; John Ludwig; Bob Kruger; Bob Muglia; David Vaskevitch; Carl Stork (Exchange); Rick Rashid; Mike Porter
 Subject: Intel - Grove meeting

I had a good meeting with Andy on Tuesday night.

Intel is going to be very aggressive with low chip prices and advancing performance faster than they had planned to. For good customers they will have Pentium-200 at \$70 this year (without MMX) and even faster with MMX next year. Pentium II will be introduced at 233mhz, 266mhz, 300mhz. Andy demonstrated PentiumII running at 466Mhz as part of his Compaq Innovate speech. He also demonstrated a Netpc showing a JAVA benchmark and manageability using Intel software.

Intel's mix: Q4'97 1H'98
 PentiumII 19% 47%
 Pentium Pro 6% 2%
 PentiumMMX 65% 41%

Pentium 10% 0%

Intel feels their "dual independent bus" approach will allow them to scale the clock speed and keep getting good performance. They think AMD's approach of using the only socket7 interface will mean that AMD won't get good performance with higher clock speed.

Andy and I agreed the top priority for improving how we work together is to have a total common view of graphics - Direct3D, OGL, Talisman, MMX2 etc.. Until Paul's recent meeting with Albert Intel had given up on working with us. Andy will make sure they do their best to engage with us. Intel has massive resources in this area as do we. Intel loves graphics because it uses the general purpose CPU very well. Nathan - we need to make sure our new "multimedia" strategy involves Intel as a partner.

I told Andy we felt bad about the Memphis schedule delays. His main concern is getting AGP machines to ship this year. I said that if they could come up with a way of doing AGP on Windows95 with a VxD we would make sure we looked it over to make sure it didn't break things or prevent a Memphis upgrade. I don't know if Intel will be able to do this but they will try and we can't veto it since AGP is in our interest as well.

I told Andy our goal was to make Spring machines by releasing October 15. He asked if we would decouple IE 4 from Memphis and I said we had decided not to do that. He asked what if IE 4 delays so that you will machines. I said our best solution then might be to deliver IE 4 "over the web" by having people download a "patch" file against the beta which would be present but not usable without the enabling "patches". I agreed with Andy that getting Memphis onto spring machines is very important.

I mentioned three event where we need Intel support: May 20th, June 6th and a fall event focused on ADSL. I was VERY surprised to hear that Andy thinks Intel doesn't know about May 20. We agreed Rich Tong and John Miner should talk about this right away. We need Intel's support for this event. I explained that June 6th is a new thing and Jonathan Roberts is the contact person. Andy is available in the Bay Area that day if we want him to be part of the event although he will just be coming back from the east coast. On ADSL I said I thought Craig Mundie was talking to Frank Gill to make sure we helped each other push this forward.

Andy asked about WebTV and our whole Windows CE data broadcast strategy. Andy wondered how we make money on a sub-\$300 device. I explained that our goal is to get the email user and use the "customer portal" asset to make money. He said Intel has no way of making money at this level although some people in the company are pushing for them to be involved. He asked why they shouldn't view WindowsCE as being as bad as JAVA. I said the difference is that Windows CE will not be allowed to compete with the PC whereas JAVAOS is focused on replacing the PC. I did not talk to Andy about Windows terminal since our plans there are just coming together.

Andy mentioned that Ellison will show Intel servers and clients in a Japan event that Steve Nachsheim will participate in. I explained our view of NC=Not Compatible in the 3 different ways and said our reaction to this will be "Even Intel based hardware can be used in a non-compatible way". Its not clear to me what "request" we are making to Intel to make sure the Windows/PC message is their primary message.

Andy is very big on Intel getting credit for things. We went through the episode of their code-layout optimization work. I understand this has been resolved. [We need to have Office use these techniques when it first installs!!]

We talked about Netshow/Netmeeting/Proshare. Intel is confused by all of our product names and multimedia layers. Andy asked if Netmeeting was related to IE or Windows and he didn't know about Netshow. I told Andy they should help a lot of with Personal Netshow/meeting using the scrunch technology since it shows off performance very well.

Intel is glad to talk to us about JAVA. They asked why we are doing AFC for Solaris and wondered what our reaction would have been if they did this. Intel feels we have not explained where "JAVA on Windows" is better and different than the generic Java story. Andy asked where we were drawing the line and deviating on run time issues and I said we were not well organized on this yet. Intel would be glad to work with us but we haven't given them an opportunity. Andy has offered to have a special meeting to discuss JAVA - he offered this about a month ago. He thinks we would be wise to have this meeting before they get going on a JAVA strategy. I think we need to do this meeting with Intel in the next month. Paul would have to be there but I would not have to be.

We talked about manageability. Andy was asked what we are shipping today that competes with DMI. I said nothing. He wondered why we had a group being so negative on DMI then. He says neither of us make much money in this area so why do we end up attacking each other over it. I said that even though we don't share code we both seem committed to WBEM and DMTF schema solutions. Andy's view was that if we had mature management we would have found a way to help each other a long time ago instead of getting customers confused and duplicating work. He said Intel is glad to say

nice things about WMI if it becomes as real as DMI is.

We talked about Merced. Intel is happy with the support they are getting. They are looking at early 99 for production volume now starting with their .18 micron process. Katmai - the x86 chip and Merced ship about the same time - they show Merced as being 4 times faster. Even the .18 micron x86 chip Willamette in the year 2000 doesn't match Merced in 99. The issue of whether we go to full 64bit did not come up. I personally hope we go straight to 64bit although Intel is worried we will be late if we do. I think DEC and Intel would both be glad to put people on this effort. The question of supporting the 36bit physical memory capability of Deschutes (and Klamath?) did not come up. I am confused about where we stand on this. I don't understand how hard it is to support this with SQL server.

Andy showed me an Optimus (Poland PC manufacturer) where the PC is branded the "Microsoft Business PC". They feel this is an example of Microsoft taking too much credit. I said I would ask Joachim to look into it since we only did this with select machines that have hundreds of dollars of applications on them. I told Andy that in the future issue like this should be raised by Dennis Carter with Bob Herbold. Joachim - please let Bob know the story on this so he can follow up with Dennis.

I mentioned to Andy that Intel needs to get more engaged with Microsoft research since that is where the work that will really exploit future processors will come from. I said we have briefed them as part of an Intel planning process but it wasn't a broad Intel group and it wasn't a dialog. Andy said he would be excited to have Craig Barrett come up and meet with the research group and go through our agenda. Craig is the #2 person at Intel and we should issue an invite to him and make it a great event. We want Intel to be impressed with our research work and to pitch in on some elements rather than duplicating everything we are doing. We should be totally open with them about our plans and optimism.

I mentioned our enthusiasm for getting SGI over to Intel. Andy said they think they are doing their best but if we have concrete ideas on anything more they can do they are open to it.

I asked Andy about their investments in things like AVID. He says it includes a commitment for Avid to focus on NT. Vadez still manages these efforts.

I told Andy we might come along and ask Intel to take a look at all the factors that make the PC frustrating to make sure we have a strong outside view of this. He said he would be glad to do it if we have a plan of some kind. I think we should pursue this in the Windows group somehow.

I did not bring up IP protection ideas that involve the processor. I am embarrassed that we don't have a clear set of requests in this area. Nathan - I am expecting something from you on this at some point. The Pentium II does have a feature to PATCH the microcode which is wild. I need to understand this better. Its very secret.

EXHIBIT 13

Date 3/31/04 Exhibit # 16
Case Microsoft
Deponent John Ludwig
Reporter JUDY ROBINSON
Naegeli Reporting Corporation
(800) 528-3335 FAX (503) 227-7123

From: Bill Gates
Sent: Wednesday, May 14, 1997 11:16 AM
To: John Ludwig
Cc: Aaron Contorer; Ben Slivka
Subject: RE: DirectX and Talisman Update

Categories: MMedia

I would be very glad to talk about this. Christine - see if we can get a time to talk in the next 2-3 week setting aside an hour.

I did stick a few "barb" comments into that email about cross platform which I should have avoided but it's a key topic that has me worried.

The email exchange this morning with Charles Fitzgerald was very helpful to my thinking on this. I think supporting JDK 1.1 is fine and I am hard core about NOT supporting JDK 1.2. I really needed to understand where we were going to draw the line because I am so afraid of the slippery slope.

If you think we should support JDK 1.2 its ok but you will really have to explain why and where it stops.

-----Original Message-----

From: John Ludwig
Sent: Wednesday, May 14, 1997 9:21 AM
To: Bill Gates
Subject: RE: DirectX and Talisman Update

i'd like to talk to you 1:1 about some of the issues you raise in here when you are back in the office. i think lack of communications between us is causing you to assume that we are doing a lot more "open xplatform" stuff than is actually the case. i'd like to talk with you about what we are actually doing, and get your input directly and unfiltered about what you want us to do. right now the only communication i have with you about some of these issues is as a sidebar in mail like below.

-----Original Message-----

From: Bill Gates
Sent: Tuesday, May 13, 1997 5:35 PM
To: Jay Torborg
Cc: Deborah Black; Moshe Dunie; Jim Allchin (Exchange); Paul Maritz; Jim Veres; Nathan Myhrvold; Aaron Contorer; Mike Abrash; Carl Stork (Exchange); Ed Fries; Robert (Robbie) Bach; Alex St. John; John Ludwig; Tod Nielsen; Craig Mundie; Moshe Lichtman; Jim Kajiya; Alvy Ray Smith
Subject: DirectX and Talisman Update

I read most of the notebook that Jim put together for me entitled "DirectX and Talisman Update". I encourage anyone of the cc line who is interesting in this topic to get a copy of the notebook.

I found section 8 from Inquest talking about who would use Talisman and why particularly helpful.

I understand Talisman better today than before. I still believe it is a very important technology.

However there is more uncertainty about Talisman's role than ever before because of Intel and the diverse competitive set of companies doing PC graphics solutions. Intel and Microsoft both feel its important to advance PC graphics. Intel wants to use up CPU MIPS and get credit for its contribution publicly. Microsoft wants to get an advantage for Windows. Microsoft has a very strong position in graphics. We have invested a lot and if we can give developers a reliable set of drivers that let them use advanced hardware including whatever Intel gets behind they will follow our lead. I hope Intel appreciates the strength of our position - they can win the chip battle without us but not the software API battle even if they throw some money around.

It now seems there is a high probability that SGI will introduce an Intel based workstation and make that their volume offering. This is very important for Microsoft because they will endorse NT and Softimage will be a hardware platform that is well suited for high end digital video. We would be glad to let SGI have any extensions we make in our graphics API back on their workstations but we don't want to give them away to Nintendo. SGI could be an ally of ours or an enemy in graphics APIs. Intel is talking to them about OpenGL extensions.

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ONLY

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Some questions:

1. Under what terms have people licensed the technology? I am sure they are interested in getting patent coverage from us. Do we get any royalties or a restriction to Windows when they do a license? Are their Talisman products just an offshoot for people like ATI, S3, Trident and Matrox? If a license is an easy thing for them to do then it doesn't really imply much for Talisman. Do rendition and 3Dfx have a high market share? We may have to work with the OEMs to get them to pick the right graphics hardware. Do we expect any arcade people to go with Talisman based hardware or does Intel/Lockheed Martin have that locked up?
2. When we talk about getting developers to do Talisman applications how are they supposed to deal with the partial implementations - is the software model for them identical?
3. How much work it is for tools like Softimage or the work the DWI did to generate data tables interpreted by code that take FULL advantage of Talisman? Is the key to get people to hand craft things or do the high level tools have to play a role? The evangelism proposal in the book says nothing about the importance of a breakthrough in working with tools people. However most of the award winning games recently have used very high level tools particularly Softimage.
4. What kind of work is going on with Java in this area? I saw they endorsed a particular audio approach. The Java platform is the greatest threat to us so I want to make sure they don't benefit from any of our work and that we stay way ahead of them. We will NOT be doing OPEN JAVA animation or graphics work despite what the cross platform promoters want us to do.
5. Whatever happened to audio? I am unclear on what our strategy is in this area and whether these Talisman implementations include any of that. I haven't heard anything about working with tools people. As I mention above Java seems to have a clear direction for audio whereas we seem to still be viewed as inferior to Apple and Progressive.
6. If someone wants to really take advantage of Talisman is there a higher level software layer from us they are likely to use? It seems like some people will not use a higher level layer. People like Seamus like to do their own work because the high level stuff has been bad. Since people won't use our layer then its hard to have IP protection for anything other than the hardware techniques themselves I think.
7. When will there be a running full speed Talisman system to amaze people? I really doubt we will get more than a few games done before then.
8. We have put a lot of resources into Talisman. Its unclear to me how much resource we should have on an ongoing basis. Unlike previous years this is not discussed in the write up.

The critical action items seem to be:

- a. Make sure we are making the right choice by starting with the OGL code. We need to listen carefully to what Alex and the game developers are saying to make sure we can succeed with this approach. Its very disappointing to me to have to start with the OGL code since its based on a standard we do not control but I do understand why this is the recommended choice and that we can move it in that direction. We will not let the cross-platform advocates commoditize our graphics APIs. We must have unique patented graphics APIs even though SUN will have equivalents and ours will not be cross platform.
- b. We still need creativity about how we make sure video drivers are much higher quality using OEM and PSS. I think there is a structural problem here that we never seem to get on top of.
- c. We need to get a commitment from EBU to do Talisman games - however they need a commitment from a Talisman hardware vendor or CPU vendor to do bundling and promotion.
- d. We need to decide who besides EBU we should get to do early Talisman games. Again we have to work with Fujitsu, Trident and perhaps Matrox, S3 and ATI on this.
- e. We need to decide how much of a budget we have for 3rd party Talisman games and for DirectX promotion. Something like \$2M to \$3M is being requested I think.
- f. Figure out our relationship to Intel in graphics. (also SGI)

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EXHIBIT 14

From: Butler Lampson
Sent: Monday, October 13, 1997 11:09 AM
To: Bill Gates; Jim Allchin (Exchange); Marshall Brumer
Cc: Joachim Kempin; Nathan Myhrvold; Rick Rashid; Eric Rudder; David Vaskevitch; Peter Kukol; Cameron Myhrvold; Mike Porter
Subject: RE: Intel meeting October 22 - technical content

I agree, it's hard to see how a byte-code architecture can be good for Intel. If Sun's catches on, we will surely do one too, which will be doubly bad for Intel. The only upside for Intel is that the performance lost by byte codes increases the need for a fast processor. So why are they hot for this? Is it just to clean up legacy crud so the low end can work better? Surely WinCE is better for that.

As you know, we have several paths (Omniware, Amitabh's proposal, perhaps others) for getting more or less automatically from our current sources and binaries to byte-coded executables. There's little doubt that with a feasible amount of work, at least one of these paths will succeed.

It should be possible for JITed byte codes to take advantage of Merced (or any other strange processor). This is really just a question of how much analysis you need to do. With more cycles, you can do more analysis. Also, the compiler can pass along hints to help you. Finally, with FX!32-like methods, you can spend a LOT of time doing the analysis for programs that run frequently. Today's PCs can do this locally, and for feeble machines it can be done off-line. MS is in a better position than anyone else to do this work, since actually deploying it gets tangled up with OS and licensing issues.

--- Original Message ---

From: Bill Gates
Sent: Sunday, October 12, 1997 6:04 PM
To: Jim Allchin (Exchange); Marshall Brumer
Cc: Joachim Kempin; Nathan Myhrvold; Rick Rashid; Eric Rudder; David Vaskevitch; Peter Kukol; Cameron Myhrvold; Bill Gates; Mike Porter; Butler Lampson
Subject: Intel meeting October 22 - technical content

I have a critical meeting with Intel a week from Wednesday. I want to convince them that they need to stay away from Oracle NCs and work more closely with Microsoft.

I will have to spend some time reviewing the low end and how they screwed us there and describing our strategy. I will have to spend some time explaining how we think customers view NCs and what we see happening with JAVA. I will send separate mail to the groups who focus on low end, java and NCs to get their input.

My three big propositions to them are that: low end stuff should be a clear subset and feed the PC architecture, SUN byte codes are bad for them and working closely with Microsoft represents the only path under which hundreds of millions of customers will want their very very high performance chips.

I will cover the low end continuity point in mail to the group specialized on that issue.

SUN byte codes are bad for them:

The idea here is that SUN byte codes level the playing field for someone wanting to build a microprocessor. Instead of having to test for hardcore compatibility with x86 which is very hard you just have to write a byte code interpreter. Also the advanced features of the chip will not be exploited. For Merced the situation is even worse - the Merced instruction set will not be cloned so Intel wants binaries using Merced to be quite common. I also believe JITed byte codes will not take advantage of the Merced instruction set.

I claim that their credibility lent to Oracle/SUN will push the world over to byte codes.

The only concrete action item in here is for Jim/David to pick a few people who are very technical to help me on this point. I don't want to say that Microsoft will never do a software architecture but I do want to point out that the SUN approach does not allow Intel innovation to look good.

I want them to understand that helping NCs and JAVA will push us to do Windows and other software in SUN byte codes even if we don't rewrite them in JAVA. I want them to understand this is more likely that everyone rewriting their software

or middleware duplicate operating systems being great and free or no on exploiting Windows.

Evangelizing together we can move the market to take advantage of their very fast processors

I don't think it helps Intel to explicitly fragment development activity. In fact I think NT on Merced in the near term is their best hope of getting Merced volume. Looking out beyond that I think our work on natural interface (I mean by this our research work on putting speech/handwriting/linguistics/learning together in a bayesian framework) is the only concrete thing that can happen fast enough with enough volume to make 200mips chips look bad then make 500mips chips look bad, then make 1200mips chips look bad...etc..etc.. This is what Intel needs from the software market.

One thing that is tricky is to explain how their efforts with Oracle/JAVA and SUN make the bad scenarios for them more likely - the world moves to byte codes as a mainstream choice, the world fragments so using cycles goes slower, they don't work with us to make the natural interface stuff happen fast...

EXHIBIT 15

From: Adam Taylor
Sent: Tuesday, October 14, 1997 7:33 PM
To: Bill Gates; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
Subject: RE: Intel Visit, quick recap

Unfortunately, Intel was not completely forthcoming on their cost structures. They would not comment on hardware configuration or get into any degree of specificity. They were willing to share only BOM data:

Device	BOM Price	Street Price
Terminal	\$95	\$300
Low NC	"\$140ish"	\$500
High NC	"\$190ish"	\$700
Diskless NT	\$240	< NetPC pricing

Note that Intel street price data is not corroborated by what Johnfre has learned from terminal OEMs, off by about \$2 - 300. Terminal OEMs sell the equivalent of the Low NC closer to an \$800 price point and are planning to target the Windows terminal at approx \$500. The reality is, most of the shipping NCs are priced above \$1000 after the necessary memory is added to run much of anything locally such as a full featured browser (Onlee's NC price data was from \$1100 to \$1640).

Johnfre also shows the below "terminal" detailed component costs. It again suggests Intel's BOM costs are way off unless they are simply not adding everything into the model.

Component	Retail	COGs
16MB RAM	\$29 (8M or Motherboard)	\$48
CPU	\$61 (K5 or Cyrix 166)	\$40
Motherboard	\$93	\$45
Ethernet	\$19	\$19
SVGA	\$26	\$25
PS/Case	\$68	\$12
Kbd/Mouse	\$18	\$20
Flash (12MB)	\$60	\$60
Total	\$374	\$269

We are planning a follow up call with Ron Peck tomorrow AM following a review on Intel/WinCE options with Jimall at 8am. We will push for more details on cost structures & hardware configurations.

thx
adam

-----Original Message-----

From: Bill Gates
Sent: Tuesday, October 14, 1997 6:09 PM
To: Harel Kodesh; Adam Taylor; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
Subject: RE: Intel Visit, quick recap

Two critical points:

1. we are in crisis mode with Intel. If they go ahead with their NC plans we certainly won't be working with them on Windows CE and most other things as well. Until I say so every conversation with Intel should say that you have been told that we are reevaluating all of our work with them based on their NC plans and what happened on the set top box issue.
2. I need to understand exactly why they think NCs are cheaper than NetPCs. I need to understand the hardware configuration of those 2 levels.

If people are that price sensitive I think AMD and National are going to sell a lot of chips.

My view is that if Intel thinks people are that cheap then we should make sure we support byte codes with all our software so that any processor can be used.

-----Original Message-----

From: Harel Kodesh

Sent: Tuesday, October 14, 1997 2:59 PM

To: Adam Taylor; Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts

Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie

Subject: RE: Intel Visit, quick recap

2 points -

1. We decided to limit CE and make it "non competitive" because, as jonro says - we did not want to confuse the developers. There is no issue with putting Browser and VM on the machine, but if we do it we are one step down the confusion path. The next step would be to expose WinCE APIs and I concerned that Intel is going to ask us to do that as the next step. It will be good to get assurance that they NOT take it down this road.
2. We are getting different messages re: intel being pissed about WindowsCE. The folks that are working for Aymar now are telling me they feel better about it. We need to find out what the problems are.

From: Jonathan Roberts

Sent: Tuesday, October 14, 1997 11:59 AM

To: Adam Taylor; Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie

Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Harel Kodesh

Subject: RE: Intel Visit, quick recap

We have entered into a Cold War with Intel. The only way to maintain our current largely favorable relationship is to clearly outline mutually assured destruction. We should make sure there are no holes in our product line that they can exploit and we should have clear boundries we don't want them to cross and if they do there should be equally clear consequences. If they proceed with this plan and offer a directly competitive offering we need to have a hyper aggressive Hydra and Low NC offering.

The key point in the mail below is Intel believes, and in fact, we believe, there is a market demand for the "Low NC device". We decided not to do this because we didn't want to split the API and we thought our other solutions were strong enough to minimize this threat. What has changed is Intel's endorsement of this device will make it a viable threat that we probably need to respond to. Best case, we get Intel to endorse our implementation, worse case, they do an NC spec. Probable case is we get them to be ambivilant to our solution and their NC solution. In any scenario, seems like we'll need to have a solution. We have a meeting with Jimall tomorrow morning at 8am to review how best to respond. Tina, please extend the invite list (excluding Bill) to include the people on this mail I didn't mention to you a minute ago.

Jonathan

-----Original Message-----

From: Adam Taylor

Sent: Tuesday, October 14, 1997 8:17 AM

To: Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie

Cc: Jonathan Roberts; Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale

Subject: Intel Visit, quick recap

Importance: High

Patfox, Marshallb, Brucebe and I visited Will Swope, Ron Peck & co at Intel yesterday to discuss their plans for an NC reference platform. (pat will be doing a more extensive trip report with planned followup). Our objective was to educate Intel on our own thin client progress with accounts and learn more about their plans. We accomplished both, although the meeting was a very tense 5 hour discussion.

My observations:

1. Intel is closely examining the market potential for the following devices:
 - Terminal. \$300 (street) device that remotes Windows apps. WinCE clearly is covering this space.
 - Low NC. \$500 " " device that offers local execution. Intel believes WinCE is not competitive in this space and claims OEMs are asking for this from Intel.

- High NC. \$700 " device that runs full fledged Java apps. Intel is not sure this device will ever materialize (or the apps) but is considering covering their bets.
- NetPC. \$950 street price. We're obviously competitive in this space.

2. Intel is currently planning to do an announcement at or near Comdex for a "low NC" specification where they believe WinCE is not competitive. Specifically, Intel claims OEMs are asking for a specification that offers a local browser, JVM and 3270 emulator. This is not overly surprisingly given our own terminal OEMs were originally asking the same thing from our WinCE spec before we decided to not have local execution.

- I believe we can still turn Intel around to be MS friendly. This will likely require a change in WinCE local execution plans to better address the "low NC" product requirements, and an immediate effort to regain currency with terminal vendors who then need to put pressure on Intel to create a WinCE (ie, not java) spec. They are still clearly pissed about the entire CE effort. We will also need to announce MS is "optimizing for the Intel architecture" as the fundamental WinCE terminal platform.

3. We were able to get Intel very interested in diskless NT as a "high NC" device. They are willing to do a joint spec in this space. However, this is only half the battle, and not the critical component. We we're not yet able to get Intel to agree to a joint MS/Intel spec in the above "low NC" space as they fundamentally believe our current CE plans are not sufficient. Their best offer was to do a "hardware only" spec for the low NC, where they would do a press release with MS indicating they are working closely with us. This is tantamount to Intel announcing a full NC spec as Oracle & every other terminal vendor will also do their own press releases supporting the new Intel NC platform. That's still a disaster scenario even though it is not explicitly a joint Intel/Oracle announce.

4. Swope netted out the "5 things" Intel wants from the MS relationship at this point in time. We made it *very* clear any NC spec announcement (with Oracle or as a hardware only spec) would be disastrous and completely screw up a, c and especially e. We made this loud and very clear.

- a. "PR not fucked up"
- b. Fix NetPC/Managed PC messaging
- c. The terminal market to stagnate
- d. Independence (from MS) in terminal space
- e. Not disrupt the MS/Intel relationship over terminal market

Swope is meeting with Andy on Thursday. We are planning to work aggressively to make progress before then.

thx
Adamt

EXHIBIT 16

From: Bill Gates
Sent: Wednesday, October 15, 1997 9:59 AM
To: Bill Gates; Jim Allchin (Exchange); Joachim Kempin; Rich Tong; On Lee; Marshall Brumer; Mike Porter; Craig Mundie; Jonathan Roberts; Adam Taylor
Cc: Christine Turner
Subject: RE: Discussion about Intel

A message I sent to Andy this morning:

-----Original Message-----

From: Bill Gates
Sent: Wednesday, October 15, 1997 9:48 AM
To: 'Andy Grove'
Subject: RE: Heads up

I'll see what I can do on the demonstration.

One thing I need some help on is to understand your tentative NC plans. Will Swoope came and presented a plan than had a \$500 and \$700 NC which were cheaper than the NetPC. We need to understand what hardware changes allow for the lower cost. The most demanding application - the biggest, the one that pages the most and grows the fastest is the browser. The PC can run diskless as well as any other device.

Our whole plan had been to tell people to write applications assuming the latest Intel processor. Hydra because it has no local execution model does not encourage redirection of the industry to applications that don't push the processor. The load on the server uses up the chip power and with full compatibility the user moves up to a state of the art client. However Intel seems now to think exposing APIs on cheap clients and directing development there is a good idea. I need to understand this better.

This is fairly important for seeing if we can get back in sync or not.

One of the interesting things about NCs/JAVA is the byte codes. The byte codes controlled by SUN will eliminate the compatibility problems of running software on different microprocessors. We are assuming that someone at Intel has decided that it ok to endorse byte codes. We didn't think byte codes made sense but since the call from Gelsinger we have been looking at this a whole new way. I will discuss this next Wednesday. One breakthrough involves the ability to ship software in C, Visual Basic - all Microsoft software in byte codes very easily in the next 6 months.

-----Original Message-----

From: Andy Grove [SMTP:Andy_Grove@ccm.sc.intel.com]
Sent: Tuesday, October 14, 1997 6:10 PM
To: Bill Gates
Subject: Heads up

Bill,

I just walked through my demos for Agenda.

I have some 8 demos, all looking super. However, I have a problem. I have chartered our people to develop two special demos for me that would illustrate how our processors shine in new environments: one, in a set top computer running Navio sw, and another, running Win CE. Navio works, and looks good; the WinCE demo (Rel 2.0) booted up for the first time today on a Pentium MMX --- and runs a simple word processor. It's not very exciting.

I realize it's late in the game but if your people can come through with something whizzy, I'd love to show it. My talk is next Tue morning.

a

From: Jonathan Roberts
Sent: Wednesday, October 15, 1997 6:12 PM
To: Bill Gates
Subject: RE: Discussion about Intel

this is a great piece of mail. It is not a rant, but a very logical dissection of the issue with the threat of thermal nuclear war very well and politely delivered.

-----Original Message-----

From: Bill Gates
Sent: Wednesday, October 15, 1997 9:59 AM
To: Bill Gates; Jim Allchin (Exchange); Joachim Kempin; Rich Tong; On Lee; Marshall Brumer; Mike Porter; Craig Mundie; Jonathan Roberts; Adam Taylor
Cc: Christine Turner
Subject: RE: Discussion about Intel

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a

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EXHIBIT 17

From: Harel Kodesh
 Sent: Monday, October 20, 1997 9:02 AM
 To: Franklin Fite Jr.; Ron Hosogi; Kathryn Hinsch
 Cc: Adam Taylor
 Subject: RE: More on Intel

I think we can let the NT guys position Intel as premier supplier, while we move forward and let people do that with whatever chip they chose. I actually believe that NEC, Hitachi etc. will have good biz here, and we it will be up to Intel to show that their architecture can support low cost design.

--- Original Message ---

From: Franklin Fite Jr.
 Sent: Monday, October 20, 1997 7:43 AM
 To: Harel Kodesh; Ron Hosogi; Kathryn Hinsch
 Subject: RE: More on Intel

This is more than "FYI"... if we go ahead with strong positioning of Intel as the preferred (only?) WBT, all of us will be on a road trip to NEC, Hitachi, Digital, etc. convincing them that CE isn't "pulling an NT" and going x86-only in general. I'm not saying that this means we should push back on the Intel-preferred WBT - that may make overall sense for MSFT - but we should be prepared to handle the consequences. Many of our chip partners see the WBT and variants as the big opportunity for them (millions of units). They won't take this lightly.

--- Original Message ---

From: Harel Kodesh
 Sent: Saturday, October 18, 1997 2:55 PM
 To: Franklin Fite Jr.
 Subject: FW: More on Intel

Fyi.

From: Adam Taylor
 Sent: Thursday, October 16, 1997 7:09 PM
 To: Pat Fox; Bill Gates; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
 Cc: Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
 Subject: RE: More on Intel

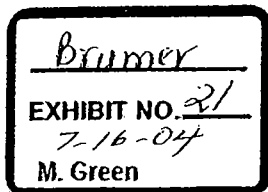
Great work turning them around Pat (with thx to bill's mail i suspect). So what would it take to go the next 10% and get an Intel/MS exclusive spec, effectively locking Oracle out? We need to push even more here as Oracle's PR engine is immense. I don't relish the idea of listening to them still turn this into an NC victory.

--- Original Message ---

From: Pat Fox
 Sent: Thursday, October 16, 1997 5:06 PM
 To: Bill Gates; Adam Taylor; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
 Cc: Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
 Subject: More on Intel

Intel has backed down to DEFCON 2. They've agreed to 90% of what we want. This is result of their meeting with Andy this morning.

- They no longer want to do an NC.
- They want to do a terminal reference design ("rich terminal"), with WinCE as preferred implementation. In return, they want their reference design positioned as the preferred hw implementation for Windows Based Terminals.
- Their WBT would have NO local processing, NO browser, NO JVM. They HATE byte codes (they got the msg).
- They can't prevent others from building on/with this design, and I actually expect Oracle to endorse the platform. I think we can effectively counter with many OEM endorsements of WinCE for WBT.



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- They want to focus the big guns on the diskless NetPC with NTW, and they want to do a joint press release next week; to be reviewed at the exec meeting on Wed. (they hinted that there is some other announcements planned, and it would definitely be best for MS and Intel to announce prior to them, hence the urgency). The terminal announce can/will happen later.
- We need to ramp up dev and mktg plans for diskless NTW. We should discuss tomorrow.

I think this is 90% of what we wanted. It's still suboptimal because they are insisting that the terminal ref design spec is done independently (but again, positioned with CE as preferred implementation). I think we can live with this.

The goodness is that MS and Intel primarily focus on NTW and the PC space.

The COGs analysis is largely academic at this point, but we will have some more details tomorrow.

Thanks,
Pat

--- Original Message ---

From: Bill Gates

Sent: Thursday, October 16, 1997 9:20 AM

To: Pat Fox; Adam Taylor; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts

Cc: Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie

Subject: RE: Intel Update

I still don't understand why they think anything that runs a browser is cheaper than a diskless PC. I need to understand this or this whole discussion makes no sense.

I don't understand what market demand and what scenario the high terminal represents. Is it a machine to run byte codes?

Intel is kidding itself to think it can be competitive in this world with byte codes - why divert peoples attention from doing high demand applications?

Why do they see the customers differently than we do?

What operating system will they test on this reference platform?

Intel should make sure they don't fire this nuclear weapon before they talk to me more.

--- Original Message ---

From: Pat Fox

Sent: Thursday, October 16, 1997 8:31 AM

To: Pat Fox; Adam Taylor; Bill Gates; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts

Cc: Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie

Subject: Intel Update

resending due to mail problems.

--- Original Message ---

From: Pat Fox

Sent: Wednesday, October 15, 1997 1:49 PM

To: Adam Taylor; Bill Gates; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts

Cc: Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie

Subject: RE: Intel Visit, quick recap

I talked to Will Swope more this morning. There's some movement on Intel's part, specifically abandoning the "NC" naming, but they still aren't giving us authorship on the hw reference spec.

Also, I got data on their BOM cost, included below.

Will is meeting with Andy Grove tomorrow (thurs) morning. I know we're meeting Friday, but I would like to give him feedback prior to his meeting with Andy. Pls let me know what you think about the proposal below. I should be getting more details later.

Current Intel proposal:

- Intel/MS collaborate on diskless NetPC designed and optimized for NTW, ala PC98. Full joint hw spec and marketing, lots of promotion, etc.
 - Intel independently develops hw reference spec for "rich terminal" (note that they're no longer insisting on calling it "NC reference specification"). Intel claims this gives them the independence they're seeking in this market (though I don't understand why they need independence).
 - Intel will position MS and WinCE as "first among equals" in their press release (they won't let us do it jointly with them). They make statements supporting WinCE, something like "our research shows that 80% of customers want to run Windows apps, and WinCE/Hydra" Sounds like they would solicit support from other vendors for this reference spec, for further down in the release. To further downplay this, they'd announce out of their Chandler, AZ operations (embedded biz).
 - The did "not" ask that we make WBT x86 only, only that we appropriately position x86 as "first among equals" on our side as well.
- Comments? Pls let me know.

BOM Data - Turns out all the BOM costs were system board only, NOT INCLUDING main/cache memory. Does include CPU price

- Terminal (\$95 BOM) - 100Mhz pentium, 1MB Flash, capable of 8-64MB RAM
- Low NC (\$140 BOM) - mid range (166Mhz) Pentium w/ MMX, 16-bit audio, smart card option, USB, 10/100 ethernet, capable of 8-64MB RAM
- High NC (\$190 BOM) - same as above, but with 200Mhz Pentium w/ MMX, MPEG video, capable of 16-128MB RAM, and L2 cache

We will review this in detail on Friday.

Thanks,
Pat

--- Original Message ---

From: Adam Taylor

Sent: Tuesday, October 14, 1997 7:33 PM

To: Bill Gates; Harel Kodesh; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts

Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie

Subject: RE: Intel Visit, quick recap

Unfortunately, Intel was not completely forthcoming on their cost structures. They would not comment on hardware configuration or get into any degree of specificity. They were willing to share only BOM data:

<< OLE Object: Microsoft Word Document >>

Note that Intel street price data is not corroborated by what Johnfre has learned from terminal OEMs, off by about \$2 - 300. Terminal OEMs sell the equivalent of the Low NC closer to an \$800 price point and are planning to target the Windows terminal at approx \$500. The reality is, most of the shipping NCs are priced above \$1000 after the necessary memory is added to run much of anything locally such as a full featured browser (Onlee's NC price data was from \$1100 to \$1640).

Johnfre also shows the below "terminal" detailed component costs. It again suggests Intel's BOM costs are way off unless they are simply not adding everything into the model.

Component	Retail	COGS
16MB RAM	\$29 (8M or Motherboard)	\$48
CPU	\$61 (K5 or Cyrix 166)	\$40
Motherboard	\$93	\$45
Ethernet	\$19	\$19
SVGA	\$26	\$25
PS/Case	\$68	\$12

Kbd/Mouse	\$18	\$20
Flash (12MB)	\$60	\$60
Total	\$374	\$269

We are planning a follow up call with Ron Peck tomorrow AM following a review on Intel/WinCE options with Jimall at 8am. We will push for more details on cost structures & hardware configurations.

lhx
adam

--- Original Message ---

From: Bill Gates
Sent: Tuesday, October 14, 1997 6:09 PM
To: Harel Kodesh; Adam Taylor; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
Subject: RE: Intel Visit, quick recap

Two critical points:

1. we are in crisis mode with Intel. If they go ahead with their NC plans we certainly won't be working with them on Windows CE and most other things as well. Until I say so every conversation with Intel should say that you have been told that we are reevaluating all of our work with them based on their NC plans and what happened on the set top box issue.
2. I need to understand exactly why they think NCs are cheaper than NetPCs. I need to understand the hardware configuration of those 2 levels.

If people are that price sensitive I think AMD and National are going to sell a lot of chips.

My view is that if Intel thinks people are that cheap then we should make sure we support byte codes with all our software so that any processor can be used.

--- Original Message ---

From: Harel Kodesh
Sent: Tuesday, October 14, 1997 2:59 PM
To: Adam Taylor; Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie; Jonathan Roberts
Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Craig Mundie
Subject: RE: Intel Visit, quick recap

2 points -

1. We decided to limit CE and make it "non competitive" because, as jonro says - we did not want to confuse the developers. There is no issue with putting Browser and VM on the machine, but if we do it we are one step down the confusion path. The next step would be to expose WinCE APIs and I concerned that Intel is going to ask us to do that as the next step. It will be good to get assurance that they NOT take it down this road.
2. We are getting different messages re: intel being pissed about WindowsCE. The folks that are working for Aymar now are telling me they feel better about it. We need to find out what the problems are.

From: Jonathan Roberts
Sent: Tuesday, October 14, 1997 11:59 AM
To: Adam Taylor; Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie
Cc: Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale; Tina Brusca (Exchange); John Frederiksen; Harel Kodesh
Subject: RE: Intel Visit, quick recap

We have entered into a Cold War with Intel. The only way to maintain our current largely favorable relationship is to clearly outline mutually assured destruction. We should make sure there are no holes in our product line that they can exploit and we should have clear boundaries we don't want them to cross and if they do there should be equally clear consequences. If they proceed with this plan and offer a directly competitive offering we need to have a hyper aggressive Hydra and Low NC offering.

The key point in the mail below is Intel believes, and in fact, we believe, there is a market demand for the "Low NC device". We decided not to do this because we didn't want to split the API and we thought our other solutions were strong enough to minimize this threat. What has changed is Intel's endorsement of this device will make it a viable threat

that we probably need to respond to. Best case, we get Intel to endorse our implementation, worse case, they do an NC spec. Probable case is we get them to be ambivalent to our solution and their NC solution. In any scenario, seems like we'll need to have a solution. We have a meeting with Jimall tomorrow morning at 8am to review how best to respond. Tina, please extend the invite list (excluding Bill) to include the people on this mail I didn't mention to you a minute ago.

Jonathan

--- Original Message ---

From: Adam Taylor
Sent: Tuesday, October 14, 1997 8:17 AM
To: Bill Gates; Paul Maritz; Jim Allchin (Exchange); Rich Tong; Moshe Dunie
Cc: Jonathan Roberts; Pat Fox; Marshall Brumer; Bruce Beachman; Frank Artale
Subject: Intel Visit, quick recap
Importance: High

Patfox, Marshallb, Brucebe and I visited Will Swope, Ron Peck & co at Intel yesterday to discuss their plans for an NC reference platform. (pat will be doing a more extensive trip report with planned followup). Our objective was to educate Intel on our own thin client progress with accounts and learn more about their plans. We accomplished both, although the meeting was a very tense 5 hour discussion.

My observations:

1. Intel is closely examining the market potential for the following devices:
 - Terminal. \$300 (street) device that remotes Windows apps. WinCE clearly is covering this space.
 - Low NC. \$500 " device that offers local execution. Intel believes WinCE is not competitive in this space and claims OEMs are asking for this from Intel.
 - High NC. \$700 " device that runs full fledged Java apps. Intel is not sure this device will ever materialize (or the apps) but is considering covering their bets.
 - NetPC. \$950 street price. We're obviously competitive in this space.

2. Intel is currently planning to do an announcement at or near Comdex for a "low NC" specification where they believe WinCE is not competitive. Specifically, Intel claims OEMs are asking for a specification that offers a local browser, JVM and 3270 emulator. This is not overly surprisingly given our own terminal OEMs were originally asking the same thing from our WinCE spec before we decided to not have local execution.

- I believe we can still turn Intel around to be MS friendly. This will likely require a change in WinCE local execution plans to better address the "low NC" product requirements, and an immediate effort to regain currency with terminal vendors who then need to put pressure on Intel to create a WinCE (ie, not java) spec. They are still clearly pissed about the entire CE effort. We will also need to announce MS is "optimizing for the Intel architecture" as the fundamental WinCE terminal platform.

3. We were able to get Intel very interested in diskless NT as a "high NC" device. They are willing to do a joint spec in this space. However, this is only half the battle, and not the critical component. We we're not yet able to get Intel to agree to a joint MS/Intel spec in the above "low NC" space as they fundamentally believe our current CE plans are not sufficient. Their best offer was to do a "hardware only" spec for the low NC, where they would do a press release with MS indicating they are working closely with us. This is tantamount to Intel announcing a full NC spec as Oracle & every other terminal vendor will also do their own press releases supporting the new Intel NC platform. That's still a disaster scenario even though it is not explicitly a joint Intel/Oracle announce.

4. Swope netted out the "5 things" Intel wants from the MS relationship at this point in time. We made it "very" clear any NC spec announcement (with Oracle or as a hardware only spec) would be disastrous and completely screw up a, c and especially e. We made this loud and very clear.
- a. "PR not fucked up"
 - b. Fix NetPC/Managed PC messaging
 - c. The terminal market to stagnate
 - d. Independence (from MS) in terminal space
 - e. Not disrupt the MS/Intel relationship over terminal market

Swope is meeting with Andy on Thursday. We are planning to work aggressively to make progress before then.

thx
Adamt

EXHIBIT 18

From: Eric Rudder
Sent: Tuesday, November 25, 1997 4:23 PM
To: Bill Gates
Subject: FW: (InfoWorld Electric) Intel media framework for Java takes shape
Importance: Low

i know you talked abt this w. gelisinger; it's sad that intel is delivering "branded" java beans.

even if they had a "commitment" this is still kind of an odd announcement ... (the quote is nice, etc.)

-eric

-----Original Message-----

From: Laura Fonda
Sent: Tuesday, November 25, 1997 11:29 AM
To: Internet Client and Developer News
Subject: (InfoWorld Electric) Intel media framework for Java takes shape

Summary: InfoWorld Electric reports that as part of an effort to position Intel processors as a major platform for Java applications, Intel has begun licensing a Media Framework for Java to independent software vendors that includes JavaBeans components for video, 3-D surround sound, and animation.

<http://www.infoworld.com/cgi-bin/displayStory.pl?971124.eframework.htm>

News from your Library -

Intel media framework for Java takes shape

By Niall McKay
InfoWorld Electric

As part of an effort to position Intel processors as a major platform for Java applications, Intel has begun licensing a Media Framework for Java to independent software vendors that includes JavaBeans components for video, 3-D surround sound, and animation.

Called the Intel Simple Video Bean for Java, the Intel Spatial Audio for Java, and the Intel Animation for Java, the products are part of the microprocessor giant's Java-development operation.

"We were one of the first licensees of Sun's Java specification in 1995," said Barbara Dawson, director of software strategies for Intel's desktop division. "We develop Java technology, optimize it for the Intel platform, and then either give that technology to JavaSoft or to one of the many Java ISVs working on the Intel platform."

Other software technologies under development at the company's Oregon facility include a Java virtual machine, a just-in-time compiler, and some dynamic compilation technology. Intel officials say it is complementary to Sun's HotSpot compiler technology due in the so-called Version 2.0 of the Java Development Kit. The HotSpot compiler is a key technology under development at Sun that promises to make Java applications run as fast as C++ applications.

Intel's media JavaBeans are part of the company's Media Framework for Java (MFJ), which is an implementation of the Java Media Framework, co-developed by Intel, Silicon Graphics, and JavaSoft.

MFJ enables Microsoft, Netscape, and Sun Java-execution environments to run Java applets containing audio-and-video media natively on the Intel platform.

Intel's media JavaBeans are available in two configurations, as a software developer's kit and as a run-time version.

Currently, licensing the technology is free, but this may change, according to Dawson.

Digital Harbor, a Java ISV based in Orem, Utah, is bundling Intel's Simple Player Bean in its .WAV productivity application environment.

"Intel's video Bean will enable our customers to embed video clips into documents," said Roger Bell, the vendor's president.

One analyst was skeptical about the Java/video combination.

"Using Java and video in the same application would make for a less-than-interactive experience, especially over the Internet," said Don DePalma, an analyst at Forrester Research, in Cambridge, Mass. "But this is a future's thing, and it's good to see one of the large vendors create implementations of the Java Media Framework."

Intel's Media Framework for Java uses supports .AVI, .WAV, .MOV, .AU, and .MPEG file formats.

Intel Corp., in Santa Clara, Calif., can be reached at (408) 987-8080 or <http://www.intel.com/>.

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EXHIBIT 19

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EXHIBIT 20

From: Russell Barck [Russell_Barck@ccm.sc.intel.com]
Sent: Monday, December 01, 1997 10:15 AM
To: Marshall Brumer; Dan_Russell@ccm2.hf.intel.com; Frank_T_Ehrig@ccm.sc.intel.com
Subject: Re: FW: (InfoWorld Electric) Intel media framework for Java

Text item:

Marshall,

My understanding of the original agreement was that we would stop new evangelism efforts, but would continue to support existing customer commitments. As far as I can tell, this is one of them.

Russ

Reply Separator

Subject: FW: (InfoWorld Electric) Intel media framework for Java take
Author: marshalb@MICROSOFT.com at SMTPGATE
Date: 11/25/97 5:24 PM

This stuff sure confuses us. We were told a while ago that you guys had stopped working on any of the Java Media Framework stuff. What is up here?

----- Original Message -----

From: Laura Fonda
Sent: Tuesday, November 25, 1997 11:29 AM
To: Internet Client and Developer News
Subject: (InfoWorld Electric) Intel media framework for Java takes shape

Summary: InfoWorld Electric reports that as part of an effort to position Intel processors as a major platform for Java applications, Intel has begun licensing a Media Framework for Java to independent software vendors that includes JavaBeans components for video, 3-D surround sound, and animation.

<http://www.infoworld.com/cgi-bin/displayStory.pl?971124.eframework.htm>

News from your Library -

Intel media framework for Java takes shape

By Niall McKay
InfoWorld Electric

As part of an effort to position Intel processors as a major platform for Java applications, Intel has begun licensing a Media Framework for Java to independent software vendors that includes JavaBeans components for video, 3-D surround sound, and animation.

Called the Intel Simple Video Bean for Java, the Intel Spatial Audio for Java, and the Intel Animation for Java, the products are part of the microprocessor giant's Java-development operation.

"We were one of the first licensees of Sun's Java specification in 1995," said Barbara Dawson, director of software strategies for Intel's desktop division. "We develop Java technology, optimize it for the Intel platform, and then either give that technology to JavaSoft or to one of the many Java ISVs working on the Intel platform."

Other software technologies under development at the company's Oregon facility include a Java virtual machine, a just-in-time compiler, and some dynamic compilation technology. Intel officials say it is complementary to Sun's HotSpot compiler technology due in the so-called Version 2.0 of the Java Development Kit. The HotSpot compiler is a key technology under development at Sun that promises to make Java applications run as fast as C++ applications.

Intel's media JavaBeans are part of the company's Media Framework for Java (MFJ), which is an implementation of the Java Media Framework, co-developed by Intel, Silicon Graphics, and JavaSoft.

MFJ enables Microsoft, Netscape, and Sun Java-execution environments to run Java applets containing audio-and-video media natively on the Intel platform.

Intel's media JavaBeans are available in two configurations, as a software developer's kit and as a run-time version.

Currently, licensing the technology is free, but this may change, according to Dawson.

Digital Harbor, a Java ISV based in Orem, Utah, is bundling Intel's Simple Player Bean in its .WAV productivity application environment.

"Intel's video Bean will enable our customers to embed video clips into documents," said Roger Bell, the vendor's president.

One analyst was skeptical about the Java/video combination.

"Using Java and video in the same application would make for a less-than-interactive experience, especially over the Internet," said Don DePalma, an analyst at Forrester Research, in Cambridge, Mass. "But this is a future's thing, and it's good to see one of the large vendors create implementations of the Java Media Framework."

Intel's Media Framework for Java uses supports .AVI, .WAV, .MOV, .AU, and .MPEG file formats.

Intel Corp., in Santa Clara, Calif., can be reached at (408) 987-8080 or <http://www.intel.com/>.

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X-Mailer: Internet Mail Service (5.5.1960.3)
X-MS-TNEF-Correlator: <ED7E7104F236D11190D800805FFE89950225E1ED@red-msg-49.dns.microsoft.com>
Date: Tue, 25 Nov 1997 17:24:33 -0800
Subject: FW: (InfoWorld Electric) Intel media framework for Java takes shape
To: Dan Russell - Intel <dan_russell@ccm2.hf.intel.com>,
Frank Ehrig - Intel <Frank_T_Ehrig@ccm.sc.intel.com>,
Russ Barck - Intel
<russell_barck@ccm.fm.intel.com>
From: Marshall Brumer <marshallb@MICROSOFT.com>
Message-ID: <ED7E7104F236D11190D800805FFE89950225E1ED@red-msg-49.dns.microsoft.com>
Received: by mail5.microsoft.com with Internet Mail Service (5.5.1960.3)
id <X4KSD9TK; Tue, 25 Nov 1997 19:54:22 -0800>

Received: from mail5.microsoft.com (mail5.microsoft.com [131.107.3.31])
by thalia.fm.intel.com (8.8.6/8.8.5) with ESMTP id UAA08253
for <russell_barck@ccm.fm.intel.com>; Tue, 25 Nov 1997 20:15:05 -0800 (PST)

Received: from thalia.fm.intel.com (thalia.fm.intel.com [132.233.247.11]) by fmm
ail.fm.intel.com (8.8.5/8.7.3) with ESMTP id UAA29371 for <russell_barck@ccm.fm.
intel.com>; Tue, 25 Nov 1997 20:13:50 -0800 (PST)
Return-Path: marshalb@MICROSOFT.com

EXHIBIT 21

From: Joachim Kempin
 Sent: Monday, February 16, 1998 9:46 AM
 To: Bob Herbold; Adam Taylor; Charles Fitzgerald; Brad Chase; Jim Allchin; Craig Mundie; Paul Maritz; Bill Gates
 Cc: Joachim Kempin; Mike Porter; Carl Stork; Frank Artale; Marshall Brumer; Bill Shaughnessy
 Subject: RE: Dennis Carter of Intel - Marketing Coordination

Chrome, I see this as an opportunity to make some money and I hope we will not license this to INTEL cheaply it away?

-----Original Message-----

From: Bob Herbold
 Sent: Sunday, February 15, 1998 4:03 PM
 To: Adam Taylor; Charles Fitzgerald; Brad Chase; Jim Allchin; Craig Mundie; Paul Maritz; Bill Gates
 Cc: Joachim Kempin; Mike Porter; Carl Stork; Frank Artale; Marshall Brumer; Bill Shaughnessy
 Subject: Dennis Carter of Intel - Marketing Coordination

On February 4, we had a conference call with Dennis Carter (VP of Marketing) and Russ Barch of Intel. The Microsoft people on the call were myself, Craig Mundie, Adam Taylor, and Charles Fitzgerald. The following summarizes the key points of discussion:

Pentium II and NT -- Adam Taylor is working with Ron Peck at Intel concerning the coordination of messaging in regard to Pentium II and NT. This works seems to be making good progress. The intent here is to not do joint advertising but to make sure that our respective messages are in concert with one another and compliment one another.

Manageability -- While this effort is just beginning, again it is Adam Taylor from Microsoft and Ron Peck from Intel who will drive it. Ron works for Will Swope. There is a lot of confusion currently in regard to the terms used by both organizations in the manageability area and we have to get our respective messages agreed upon and we need to both use similar language. The customers are very confused in this area and that is because both Intel and Microsoft have used a variety of words to describe what we are trying to achieve in this area.

Java -- Charles Fitzgerald is talking with Barbara Dawson of Intel on almost a daily basis and we seem to have good agreement here. As long as we are talking "native" with respect to Java, both parties are happy. Dennis reiterated once again that the Java Media Framework activity between Sun and Intel is very very low priority and they expect it to die a natural death. There was general agreement that Netscape's disinvestment in Java certainly puts Java at the crossroads.

Lean Client -- Adam Taylor will check in on how things are going on our end with respect to the Lean Client activities as they relate to Intel. Pat Gelsinger and Jim Allchin have talked this subject and we seem to be in general agreement.

Windows CE -- Craig Mundie talked about our three different approaches to the use of Windows CE: (1) embedded; (2) PC family (auto, handheld, etc.); (3) multi-media (WebTV/set top box). Dennis clearly indicated that Intel continues to be primarily interested in the PC business and it was clear from his comments that there simply hasn't been a whole lot of agreement in these areas within Intel. Craig indicated that he is working the overall subject with Mike Aymar and the current discussion is focusing on a "super set top box" that would be able to operate as both a PC as well as a set top box. We talked at length in regard to the huge PR risk here; namely, writers citing that Intel and Microsoft are going in different directions. We agreed that Craig Mundie and Mike Aymar need to agree upon a PR direction that we can both follow.

Chrome -- Dennis brought up this subject and he indicated that Intel is very positive. Naturally, they view Chrome as a "MIPS sucker". Adam Taylor indicated he would follow up to make sure that the right person is isolated with in Microsoft for Intel to work with (tough, since Chrome commitment at MS seems to waiver).

I indicated to Dennis that I would organize the next call in about eight weeks and both of us cited the fact that we seem to finally be making some progress on the messaging issues.

1

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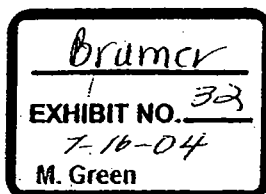


EXHIBIT 22

Bill Gates - ROUGH; August 26, 2004

Page 1

1 VIDEO OPERATOR: Today is August 26, 2004. The
2 time on the monitor is is now 1:11 p.m. This is Volume 1 No.
3 1, Tape No. 1 in the deposition of Bill gates in the United
4 States District Court for the District of Maryland in the
5 matter of Burst.com, Incorporated versus Microsoft
6 Corporation, Civil Action No. JFM-02-CV-2952. We are at the
7 offices of Microsoft Corporation, the address is One
8 Microsoft Way in Redmond, Washington. Today's deposition was
9 noticed by the attorney Spencer Hosie.

10 My name is Peter A. Koslik, I'm employed by Royal
11 Video Productions, Incorporated, whose principal place of
12 business is 950 Northwest Firwood Boulevard, Issaquah,
13 Washington, 98027. The phone number there is 425-391-6809.
14 Today's court reporter is Diane Mills of Yamaguchi, Obien &
15 Mangio.

16 At this time I would like to ask all persons except
17 for the witness and the court reporter to introduce
18 themselves for the record. Please state your name, the firm
19 you're working for, and whom you're representing in this
20 matter starting from my right, please.

21 MR. HOSIE: Good afternoon. My name is Spencer
22 Hosie, I represent the plaintiff in this case, Burst.

23 MR. WECKER: Bruce Wecker, also for the plaintiff.

24 MR. DOUGLAS: Charles Douglas representing
25 Microsoft.

Draft Copy

Bill Gates - ROUGH; August 26, 2004

<p style="text-align: right;">Page 2</p> <p>1 MR. TREECE: John Treece also representing 2 Microsoft. 3 MR. BURT: Tom Burt representing Microsoft. 4 MR. CULBERT: Andy Culbert representing Microsoft. 5 6 BILL GATES, 7 sworn as a witness by the Notary Public, 8 testified as follows: 9 10 EXAMINATION 11 12 BY MR. HOSIE: 13 Q. Good afternoon, Mr. Gates. We have not met prior 14 to today, have we, sir? 15 A. I don't believe so. 16 Q. You appreciate you have been placed under oath, 17 sir? 18 A. I just did. 19 Q. And you understand that you have an obligation to 20 testify as fully and truthfully as possible? 21 A. Sure. 22 Q. Do you understand, sir, that if you actually have a 23 recollection or a memory of an event, to say I don't recall 24 would be untrue? 25 A. That sounds right.</p>	<p style="text-align: right;">Page 4</p> <p>1 some browser things that were going on that did represent 2 important competitive activity. 3 Q. (BY MR. HOSIE) My question, sir, was a little 4 different and I'll put it to you again. 5 Is it not not true, Mr. Gates, that in 1997 you 6 personally viewed Java as the biggest threat facing 7 Microsoft? 8 MR. DOUGLAS: Same objection. 9 A. You'll have to give me the context. 10 Q. (BY MR. HOSIE) Let me do that, sir. Let the 11 record reflect I'm showing the witness what has been marked 12 as Exhibit 1. Counsel, copy for you. 13 (Deposition Exhibit No. 1 was marked 14 for identification.) 15 Q. (BY MR. HOSIE) Mr. Gates, I've marked as Exhibit 1 16 an e-mail thread or string, depending on your nomenclature, 17 I'm going to direct your attention to an e-mail from you on 18 the bottom third of the first page, dated Friday November 7, 19 1997, 10:53 a.m. I'll give you a moment to read that, sir. 20 A. You're talking about Ben Waldman's mail? 21 Q. The one from Bill Gates to Ben Waldman in the 22 bottom third of the page. Do you see that, Mr. Gates? 23 A. Right. 24 Q. This is an e-mail you wrote? 25 A. Yes.</p>
<p style="text-align: right;">Page 3</p> <p>1 Q. Are you represented by counsel here today? 2 A. Yes. 3 Q. Who is your lawyer, please? 4 A. I'm represented by Microsoft counsel. 5 Q. And that would be Mr. Chuck Douglas sitting 6 immediately to your right? 7 A. He's one lawyer who is here today. 8 Q. I see four Microsoft lawyers sitting across from me 9 at the table, sir. Are they all counsel for you? 10 A. From a layman's point of view I'd say yes. Perhaps 11 there's some legal aspect of being somebody's counsel I'm not 12 appreciating that maybe they should comment on if you're 13 curious. 14 MR. DOUGLAS: Mr. Gates, we all represent the 15 company and therefore you -- 16 A. Okay. 17 Q. (BY MR. HOSIE) Mr. Gates, let me turn the clock 18 back to 1997. Was it true, sir, that in 1997 you viewed Java 19 as the biggest threat facing Microsoft? 20 MR. DOUGLAS: Objection to the form. Vague and 21 ambiguous. 22 A. I wouldn't say that you can take the Java -- the 23 term Java and say that just the by itself represented any 24 type of unified threat. There were a lot of things that un- 25 was doing around Java, other people were doing, could Java,</p>	<p style="text-align: right;">Page 5</p> <p>1 Q. You wrote this on or about November 7, 1997? 2 A. It appears, yes. 3 Q. And you sent it to Mr. Waldman? 4 A. That's right. 5 Q. Mr. Waldman worked at Microsoft, did he not, sir? 6 A. At the time, yes. 7 Q. And you wrote this e-mail in a fingers to keyboard 8 sense? 9 A. I'm sorry? 10 Q. You wrote this e-mail in a fingers to keyboard 11 sense? I mean, this is your -- 12 A. I have no idea what that means. 13 Q. Did you write this e-mail, sir? 14 A. I typed it, yes. 15 Q. That was my question. And do you not say in this 16 e-mail, and I quote, Java is the biggest threat to us? 17 A. This is about a very specific thing with Apple, and 18 I say relative to that, I view Java as the biggest threat. 19 Q. To Microsoft? 20 A. Relative to the issues we were discussing about 21 Apple here. 22 Q. Who is the us you were referencing in this 23 sentence, sir? 24 A. Microsoft. 25 Q. Now, was it the Java runtime that gave you</p>

2 (Pages 2 to 5)

Bill Gates - ROUGH; August 26, 2004

<p style="text-align: right;">Page 6</p> <p>1 heartburn, sir?</p> <p>2 MR. DOUGLAS: Objection to the form.</p> <p>3 A. What's the context? I don't think we've talked</p> <p>4 about anything that would help me answer that.</p> <p>5 (Deposition Exhibit No. 2 was marked</p> <p>6 for identification.)</p> <p>7 Q. (BY MR. HOSIE) Why don't we mark another exhibit,</p> <p>8 then. Mr. Gates, before I show you what I've marked as</p> <p>9 Exhibit 2, let me ask this. I suspect you had a chance to</p> <p>10 meet with your lawyers to prepare yourself to testify here</p> <p>11 today?</p> <p>12 A. I met with them yesterday.</p> <p>13 Q. And with whom did you meet, sir?</p> <p>14 A. With the gentlemen here today.</p> <p>15 Q. All four counsel?</p> <p>16 A. They were there, and I think maybe one other person</p> <p>17 was there.</p> <p>18 Q. Who was the other person, if you recall?</p> <p>19 A. Maybe they can help me.</p> <p>20 MR. DOUGLAS: Mr. Cederoth.</p> <p>21 Q. (BY MR. HOSIE) Thank you. And how many hours did</p> <p>22 this preparation session last?</p> <p>23 A. A few hours.</p> <p>24 Q. Two, three, five?</p> <p>25 A. I think close to three.</p>	<p style="text-align: right;">Page 8</p> <p>1 not to answer.</p> <p>2 Q. (BY MR. HOSIE) Did reviewing these nine documents</p> <p>3 help refresh your recollection to any extent, Mr. Gates?</p> <p>4 A. To some extent, yes.</p> <p>5 Q. Because they related to events some years in the</p> <p>6 past now; correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And it was helpful for you in trying to recall what</p> <p>9 had happened to review the paper record of the time; fair?</p> <p>10 A. I was receiving advice from counsel.</p> <p>11 MR. HOSIE: Are you standing with your</p> <p>12 instructions, Counsel?</p> <p>13 MR. DOUGLAS: Absolutely.</p> <p>14 (Deposition Exhibit No. 2 was marked</p> <p>15 for identification.)</p> <p>16 Q. (BY MR. HOSIE) I'll show you what has been marked</p> <p>17 as Exhibit 2, sir. Counsel, copy for you. Gentlemen, I</p> <p>18 apologize for only bringing several copies. I didn't expect</p> <p>19 this would be quite as it in fact is.</p> <p>20 Mr. Gates, I'd ask you to look at the first page to</p> <p>21 familiarize yourself with this document and then I will ask</p> <p>22 you about the first and second pages attached.</p> <p>23 A. (Witness reviewing document.) Yeah, go ahead.</p> <p>24 Q. Do you recognize this document, sir?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Three hours. And did the Microsoft lawyers show</p> <p>2 you any documents during this session?</p> <p>3 A. Yeah, they did show me some.</p> <p>4 Q. And do you recall the approximate number of</p> <p>5 documents they showed you?</p> <p>6 A. Maybe nine.</p> <p>7 Q. And do you recall any of the specific nine?</p> <p>8 A. What do you mean by that?</p> <p>9 Q. Can you tell me what they were?</p> <p>10 MR. DOUGLAS: And I object to that question. If</p> <p>11 you're asking him to describe what was shown to him by</p> <p>12 counsel in a privileged meeting, that violates the privilege</p> <p>13 and I would instruct the witness not to answer that question.</p> <p>14 Q. (BY MR. HOSIE) Sir, I'd like you to answer the</p> <p>15 following question yes or no. Do you actually remember the</p> <p>16 specific identity of any of those nine documents? You may</p> <p>17 answer that yes or no.</p> <p>18 MR. DOUGLAS: You can answer that question.</p> <p>19 A. I remember things about what I was shown. They're</p> <p>20 not titled documents, they're e-mails.</p> <p>21 Q. (BY MR. HOSIE) Were all nine e-mails, sir?</p> <p>22 A. One wasn't.</p> <p>23 Q. Was one a presentation deck?</p> <p>24 MR. DOUGLAS: Objection. You're asking the witness</p> <p>25 now to describe what he was shown, and I instruct the witness</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Was this one of the ones shown to you yesterday?</p> <p>2 A. No.</p> <p>3 Q. The cover page of the document is an e-mail from</p> <p>4 Paul Maritz to you, Allchin and others, dated January 5,</p> <p>5 1997. Do you see that, sir?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And I'm sorry, you have to answer aloud, a yes or a</p> <p>8 no, please.</p> <p>9 A. Uh-huh is not good enough? It was aloud, but yes.</p> <p>10 Q. How about with words, thank you.</p> <p>11 MR. DOUGLAS: Something that the court reporter can</p> <p>12 transcribe.</p> <p>13 A. H-M-M-M.</p> <p>14 Q. (BY MR. HOSIE) This e-mail references a draft</p> <p>15 series of slides for Bill G to use on Monday p.m. You would</p> <p>16 be the Bill G, sir?</p> <p>17 A. Yes.</p> <p>18 Q. That's your e-mail moniker or alias, as it were?</p> <p>19 A. It used to be when you used e-mail shorthand like</p> <p>20 that, that's right.</p> <p>21 Q. Fair enough. And you've had a chance to look at</p> <p>22 the first couple pages of the attachment, sir?</p> <p>23 A. Yes.</p> <p>24 Q. And you recognize these slides, sir?</p> <p>25 A. No.</p>

3 (Pages 6 to 9)

Bill Gates - ROUGH; August 26, 2004

<p style="text-align: right;">Page 10</p> <p>1 Q. Do you recall attending a meeting in early 1997</p> <p>2 dealing with the NC and Java challenge?</p> <p>3 A. I'm sure there were meetings that touched on that</p> <p>4 topic.</p> <p>5 Q. NC, sir, is an acronym for network computer or</p> <p>6 network computing?</p> <p>7 A. Computer, in most cases.</p> <p>8 Q. In your vernacular it would be network computer?</p> <p>9 A. Well, it's a term -- it can be used for other</p> <p>10 things also, but it's often network computer.</p> <p>11 Q. Fair enough. Turning to the second page, sir, this</p> <p>12 references a key platform challenge. And the notes says NC</p> <p>13 and Java are platform challenges.</p> <p>14 In 1997, Mr. Gates, did you personally view NC and</p> <p>15 Java as presenting platform challenges to Microsoft?</p> <p>16 MR. DOUGLAS: Objection to the form. Vague and</p> <p>17 ambiguous.</p> <p>18 A. We were doing activities with Java, other people</p> <p>19 were doing activities with Java, and some of those were</p> <p>20 people we were competing with.</p> <p>21 Q. (BY MR. HOSIE) My question, sir, was a little</p> <p>22 different and I'll ask it again.</p> <p>23 In 1997, did you personally, Mr. Bill Gates, view</p> <p>24 NC and Java as presenting platform challenges to Microsoft?</p> <p>25 MR. DOUGLAS: Same objection.</p>	<p style="text-align: right;">Page 12</p> <p>1 products.</p> <p>2 Q. Sir, thank you, but you are answering a question</p> <p>3 that I did not ask and I will ask my question again.</p> <p>4 A. Okay.</p> <p>5 Q. Are you ready? Here it is.</p> <p>6 MR. DOUGLAS: Well, Mr. Hosie, object to the</p> <p>7 preamble. If you want to ask a question just ask it, but</p> <p>8 it's purely argumentative and it's not going to be</p> <p>9 productive.</p> <p>10 MR. HOSIE: I don't mean to argue with this</p> <p>11 witness.</p> <p>12 MR. DOUGLAS: Well, you are and just ask the</p> <p>13 question in a professional manner.</p> <p>14 Q. (BY MR. HOSIE) Sir, here's my question. Did you</p> <p>15 personally view NC and Java as presenting platform challenges</p> <p>16 to Microsoft in 1997?</p> <p>17 MR. DOUGLAS: And I have the same objection. Vague</p> <p>18 and overbroad.</p> <p>19 A. They weren't purely challenges but there were</p> <p>20 aspects of things that people were doing with them that were</p> <p>21 challenges.</p> <p>22 Q. (BY MR. HOSIE) Challenges to your platform?</p> <p>23 A. To various of our products.</p> <p>24 Q. What aspects of what others were doing did you view</p> <p>25 as presenting platform challenges to Microsoft?</p>
<p style="text-align: right;">Page 11</p> <p>1 A. There were things about NCs and Java we chose to</p> <p>2 embrace and offer, and there were things we didn't choose to</p> <p>3 embrace that competitors did embrace, so they were part of</p> <p>4 the competitive framework.</p> <p>5 Q. (BY MR. HOSIE) With all due respect, sir, I don't</p> <p>6 think you've answered my I question and I'll ask it a third</p> <p>7 time.</p> <p>8 Did you personally in 1997 view NC and Java as</p> <p>9 presenting Microsoft with platform challenges? I think</p> <p>10 that's a yes or no.</p> <p>11 MR. DOUGLAS: Same objection. And Mr. Gates, you</p> <p>12 do not necessarily have to answer a question yes or no if it</p> <p>13 can't be answered yes or no. And if the answer is the same</p> <p>14 as you gave him before, that's perfectly fine as well. But</p> <p>15 if you'd like to have the question read back --</p> <p>16 A. There are aspects of it that we were involved in</p> <p>17 and that were part of our strategy and there are aspects that</p> <p>18 weren't.</p> <p>19 Q. (BY MR. HOSIE) This is a question you can't</p> <p>20 answer, sir?</p> <p>21 A. I've answered it. A yes would be wrong because</p> <p>22 certainly it was part of our strategy to do some things in</p> <p>23 those areas, and a no would be wrong because there's</p> <p>24 absolutely a lot of activity on the part of competitors in</p> <p>25 those areas that, you know, offered alternatives to our</p>	<p style="text-align: right;">Page 13</p> <p>1 A. They were creating competitive products using those</p> <p>2 approaches.</p> <p>3 Q. This slide goes on to note of a possible emergence</p> <p>4 of a set of APIs and underlying system software that lead</p> <p>5 to lesser or no role for Windows.</p> <p>6 Have I read that correctly, Mr. Gates?</p> <p>7 A. You're just asking me about your reading?</p> <p>8 Q. Right now that's correct.</p> <p>9 A. Okay, let's take a look.</p> <p>10 Q. I think literally I'd like to first get you on the</p> <p>11 same page.</p> <p>12 A. That'll help.</p> <p>13 Q. That'll help.</p> <p>14 A. What page are you talking about?</p> <p>15 Q. I'm on Page 2, sir. The title is key platform</p> <p>16 challenge, and you see the language NC and Java are platform</p> <p>17 challenges?</p> <p>18 A. Right.</p> <p>19 Q. The question we just went around and around on;</p> <p>20 correct?</p> <p>21 A. No.</p> <p>22 Q. And then I read into the record the next bullet</p> <p>23 point paragraph, and I'll do so again. Open quote, possible</p> <p>24 emergence of a set of APIs and underlying system software</p> <p>25 that lead to lesser or no role for Windows.</p>

4 (Pages 10 to 13)

Bill Gates - ROUGH; August 26, 2004

<p style="text-align: right;">Page 14</p> <p>1 Have I read that correctly, sir?</p> <p>2 A. Uh-huh.</p> <p>3 Q. I think that was a yes?</p> <p>4 A. You read that correctly.</p> <p>5 Q. Thank you. Now, what does that language mean to</p> <p>6 you, Mr. Gates, possible emergence of a set of APIs and</p> <p>7 underlying system software that lead to lesser or no role for</p> <p>8 Windows?</p> <p>9 MR. DOUGLAS: Objection. Form and foundation.</p> <p>10 A. It suggests exactly what it says, that somebody can</p> <p>11 build an operating system that's not Windows and there were</p> <p>12 people doing that, as there have been at all times.</p> <p>13 Q. (BY MR. HOSIE) And that would not be a good thing</p> <p>14 for Microsoft; correct?</p> <p>15 A. No, there's always been people doing other</p> <p>16 operating systems.</p> <p>17 Q. Well --</p> <p>18 A. It's competition.</p> <p>19 Q. Sure, and since there have always been to some</p> <p>20 modest extent other operating systems, why in 1997 was</p> <p>21 Microsoft -- well, were you personally concerned about NC and</p> <p>22 Java presenting platform challenges?</p> <p>23 MR. DOUGLAS: Objection to the form. Vague and</p> <p>24 ambiguous and overbroad.</p> <p>25 Q. (BY MR. HOSIE) In short, Mr. Gates, what was</p>	<p style="text-align: right;">Page 16</p> <p>1 it doesn't have multimedia capabilities, rich things on it.</p> <p>2 So when you get down to the thin end, there's essentially no</p> <p>3 runtime there at all, it's all been abstracted away. So in</p> <p>4 your question there's two distinct things that aren't the</p> <p>5 same. There's the idea of a super thin device which we</p> <p>6 participated in that, we didn't happen to call ours a network</p> <p>7 computer. In fact, we were a very significant market</p> <p>8 participant in doing those thin devices.</p> <p>9 Q. Hydra?</p> <p>10 A. No, Windows terminal server. Hydra is a code name</p> <p>11 that we've used around here many timesm and I don't -- no</p> <p>12 shipping product has ever been called hydra. Many projects</p> <p>13 under development were called hydra. I don't know if Windows</p> <p>14 terminal server was one of those, but Windows terminal server</p> <p>15 is the product name we used for our thin computing offering</p> <p>16 and so it doesn't run Java or competitor or anything on it</p> <p>17 because it's purely thin.</p> <p>18 Q. My question, Mr. Gates, is, were you concerned</p> <p>19 about the marriage of Java and network computing leading to</p> <p>20 the emergence of a paradigm that would give Microsoft's OS</p> <p>21 little or no role?</p> <p>22 MR. DOUGLAS: Objection to the form. Vague and</p> <p>23 ambiguous.</p> <p>24 A. Java and network computers are two distinct things.</p> <p>25 There were aspects of Java that our competitors were adopting</p>
<p style="text-align: right;">Page 15</p> <p>1 different about NC and Java?</p> <p>2 MR. DOUGLAS: Same objection.</p> <p>3 A. Different from what?</p> <p>4 Q. (BY MR. HOSIE) From, say, an Apple operating</p> <p>5 system.</p> <p>6 A. Well, you just showed me a piece of mail that was</p> <p>7 talking about Apple's Java strategy.</p> <p>8 Q. Yeah.</p> <p>9 A. There's no distinction. Apple, like many operating</p> <p>10 system people, they adopted a strategy with respect to Java.</p> <p>11 So did Microsoft, so did Sun, so did Netscape. Likewise,</p> <p>12 anybody building hardware platforms was going to decide how</p> <p>13 much they embraced the idea of very limited computers. For</p> <p>14 example, it couldn't do multimedia, couldn't do like</p> <p>15 streaming video, like low end network computers or more</p> <p>16 powerful PCs that use latest chips and therefore could let</p> <p>17 you, for example, see streaming video.</p> <p>18 Q. Were you concerned that the marriage, if you will,</p> <p>19 of Java and network computing might lead to the emergence of</p> <p>20 a series of thin client computers not dependent on the</p> <p>21 Microsoft OS?</p> <p>22 MR. DOUGLAS: Objection to the form.</p> <p>23 A. As I've said, there's always been competitive</p> <p>24 operating systems. They use Java to some degree. A thin</p> <p>25 device doesn't run anything, that's what it's called, thin, is</p>	<p style="text-align: right;">Page 17</p> <p>1 that created competition that had nothing to do with network</p> <p>2 computers. And in most cases network computers had very,</p> <p>3 very little to do with Java.</p> <p>4 Q. (BY MR. HOSIE) So are you saying that you were not</p> <p>5 concerned about the emergence of network computers running</p> <p>6 some sort of Java runtime as presenting a threat to you at</p> <p>7 Microsoft?</p> <p>8 A. Now, you're talking about the marriage of two</p> <p>9 things that are basically separate. We were concerned about</p> <p>10 what competitors were doing with Java, we were concerned</p> <p>11 about what competitors were doing with network computers, but</p> <p>12 by and large, those are two separate things. If you put them</p> <p>13 together, it's actually not really a network computer it's</p> <p>14 kind of a halfway, you know, kind of a medium fat thing.</p> <p>15 (Deposition Exhibit No. 3 was marked</p> <p>16 for identification.)</p> <p>17 Q. (BY MR. HOSIE) Let me show you what I've marked as</p> <p>18 Exhibit 3, sir. For the record, I've marked as our next in</p> <p>19 order Exhibit 3 an April 22, 1997 memo from Jeff Raikes to</p> <p>20 Bill Gates and Steve Ballmer.</p> <p>21 A. That's not correct, it's copied to Bill Gates and</p> <p>22 Steve Ballmer.</p> <p>23 Q. Thank you, it is. And --</p> <p>24 A. It's to the WSJ.</p> <p>25 Q. And what's the WSJ SMM acronym stand for?</p>

5 (Pages 14 to 17)

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<p style="text-align: right;">Page 18</p> <p>1 A. Worldwide sales and marketing meeting. It's a 2 bunch of people. 3 Q. It's an e-mail alias? 4 A. It's the set of people who came to a meeting. I 5 don't think it's an e-mail alias, but it's a fairly sizeable 6 group of people who came to an annual meeting called the 7 worldwide sales and marketing meeting. 8 Q. And you, as you noted, were a carbon copy recipient 9 of this? 10 A. That's what it shows. 11 Q. As is Mr. Ballmer? 12 A. Right. 13 Q. And it would have been your practice to read this 14 upon receipt, sir? 15 A. Not everything I'm copied on do I read, no. 16 Q. Did you recall reading this, sir? 17 A. No. 18 Q. Was it your expectation given the nature of this 19 document that you would have read it when you received it? 20 A. Let's see how long it is. I think there's a good 21 chance I didn't read all of this. 22 Q. Do you think you read parts of it? 23 A. I don't know. 24 Q. You just can't recall? 25 A. That's right.</p>	<p style="text-align: right;">Page 20</p> <p>1 environment led by Sun, Oracle, IBM and Netscape is making a 2 big push to displace Windows. 3 Was that your personal view, sir, in 1997? 4 MR. DOUGLAS: Objection to the form. Foundation. 5 A. There were a lot of competitive activities by those 6 people, some of which involved using Java, some of which did 7 not involve using Java. Those were amongst our major 8 competitors. 9 Q. (BY MR. HOSIE) But my question, sir, was a little 10 different and I'll ask it again. 11 Did you personally feel that network computer and 12 the Java operating environment were making a big push to 13 displace Windows in 1997? 14 MR. DOUGLAS: Same objection. 15 A. The people making a big push are the competitors. 16 The network computer is not making a big push, it's Sun, IBM, 17 the companies that are listed there. 18 Q. (BY MR. HOSIE) Well, let me ask it this way, 19 Mr. Gates. 20 Do you agree or disagree with what Mr. Raikes wrote 21 here? 22 A. I think it's sort of a very broad statement that 23 given that he wasn't involved in our platform business, and 24 you can see from the memo that most of what this is talking 25 about is the part of the business he's in charge of, and he's</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. If you could turn to the second page, sir. 2 Actually, let me start on the first page. If you could read 3 to yourself the first and second sentence of the second 4 paragraph in the introduction. 5 A. (Witness reading document.) The first and second 6 sentence of which paragraph? 7 Q. The second paragraph, Mr. Gates. 8 MR. DOUGLAS: The one starting with but major? 9 MR. HOSIE: Indeed. 10 A. (Witness reading document.) Okay, I read the whole 11 paragraph. 12 Q. (BY MR. HOSIE) This paragraph talks about network 13 computer, does it not? 14 A. It mentions many competitive activities, I think 15 it's 11. 16 Q. And one of them is the network computer, is it not, 17 sir? 18 A. That's correct. 19 Q. And another is the Java operating environment? 20 A. That's another one. 21 Q. And Mr. Raikes -- am I pronouncing his name 22 correctly? 23 A. Yes. 24 Q. Mr. Raikes observes that, and in fact for the 25 record, the network computer is the Java operating</p>	<p style="text-align: right;">Page 21</p> <p>1 kind of summarizing that if you take all the different things 2 those guys are doing together, picking the different 3 competitive themes he's got there, I don't think he's making 4 a big mistake, but it's an introduction to his area of 5 expertise. 6 Q. Sure. Are you saying that you agree with what he 7 wrote there or you don't think he made a big mistake but 8 perhaps made a little mistake? 9 A. No, I think it's just oversimplistic and but not 10 incorrect. 11 Q. So generally speaking, you would say this was 12 generally correct? 13 A. No, I'd say it's oversimplistic. 14 Q. But generally speaking correct? 15 A. Well, oversimplistic I think captures exactly what 16 I'd say. 17 Q. Okay, sir. Why don't we turn to the next page and 18 perhaps we'll have more success with this language. 19 Do you see a paragraph called selling the platform? 20 A. I do. 21 Q. Before I ask you questions about this, Mr. Gates, 22 I'd like you to take a moment and read it to yourself. 23 MR. DOUGLAS: All three paragraphs? 24 MR. HOSIE: No, just the first paragraph under 25 selling the platform</p>

6 (Pages 18 to 21)

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<p style="text-align: right;">Page 22</p> <p>1 A. (Witness reading document.) Okay.</p> <p>2 Q. (BY MR. HOSIE) Mr. Raikes begins by saying, and</p> <p>3 I'll quote for the record, open quote, Windows is facing its</p> <p>4 biggest competitive threat since inception.</p> <p>5 Have I read that correctly?</p> <p>6 A. Uh-huh, yes.</p> <p>7 Q. And -- thank you. Was that how you personally felt</p> <p>8 in 1997, sir, that Windows was facing its biggest competitive</p> <p>9 threat since inception?</p> <p>10 A. No.</p> <p>11 Q. So this is a statement of Mr. Raikes that you would</p> <p>12 actually in fact disagree with?</p> <p>13 A. I think it's fairly classic Microsoft hyperbole to</p> <p>14 say in every year we're in business, this is the year we're</p> <p>15 facing the greatest competitive challenge. And I bet you I</p> <p>16 can find a dozen memos a month that speak that way. I'd say</p> <p>17 that OS/2 was actually the greatest competitive threat to</p> <p>18 Windows since its inception, but by the time this memo was</p> <p>19 written, IBM had done a fairly poor job with OS/2.</p> <p>20 Q. People have forgotten about the OS/2 scare, if you</p> <p>21 will?</p> <p>22 MR. DOUGLAS: Objection to the form.</p> <p>23 Q. (BY MR. HOSIE) More than a scare?</p> <p>24 A. That's not a good characterization. It wasn't just</p> <p>25 a scare, it was actually a product shipped by the largest</p>	<p style="text-align: right;">Page 24</p> <p>1 buying Microsoft related software, that is, if they bought an</p> <p>2 NC that had no relationship to Windows whatsoever, that could</p> <p>3 displace all the things that Mr. Raikes enumerates.</p> <p>4 Q. So -- sure. So, for instance, if NC's running</p> <p>5 Navio became the standard --</p> <p>6 A. What is Navio?</p> <p>7 Q. Does that ring a bell, sir, N-a-v-i-o, an operating</p> <p>8 runtime --</p> <p>9 A. What is Navio?</p> <p>10 Q. Do you recall at all? I take it not.</p> <p>11 A. No.</p> <p>12 Q. What runtimes do you recall that weren't Microsoft</p> <p>13 based for NCs as of 1997? Give me some names if you can</p> <p>14 recall some.</p> <p>15 A. Well, basically a pure NC isn't going to have an</p> <p>16 operating system, it's going to have the ability to do</p> <p>17 presentation. And that's why they called it thin, because</p> <p>18 you never had to update the software that was on it. Now,</p> <p>19 the problem you get into is then you can't do things like --</p> <p>20 Q. Multimedia?</p> <p>21 A. -- video to it. Now, you know, more recently,</p> <p>22 these low end devices, it's been cheaper to put things in</p> <p>23 them but they've always had big problems with things like</p> <p>24 streaming video or add-in, plug-ins, things of that nature.</p> <p>25 So there's a whole spectrum of devices going from what is</p>
<p style="text-align: right;">Page 23</p> <p>1 company in the computer industry called OS/2.</p> <p>2 Q. Fair enough. Would you agree with Mr. Raikes at</p> <p>3 least to the extent of saying that NC and Java presented a</p> <p>4 big competitive threat in 1997?</p> <p>5 MR. DOUGLAS: Well, objection to the form of that,</p> <p>6 plus foundation.</p> <p>7 A. No, I'd say they were competitors doing a lot of</p> <p>8 things that were competitive threats. Amongst those there</p> <p>9 was the NC work which is one thrust which we actually got</p> <p>10 involved in and did pretty well in. Then there were various</p> <p>11 people using pieces of Java technology which we also to a</p> <p>12 limited degree got involved in.</p> <p>13 Q. (BY MR. HOSIE) Sure, sure, the subject of the Sun</p> <p>14 One case in San Jose?</p> <p>15 A. No.</p> <p>16 Q. Well, Mr. Gates, let me go on to the next sentence</p> <p>17 and I'll read it for the record. If the NC is successful it</p> <p>18 will mean a catastrophic down side in Windows revenue, our</p> <p>19 server business, our tools business and our applications</p> <p>20 business i.e., NC's threaten the heart and body of our</p> <p>21 company.</p> <p>22 Sir, did you agree that network computers</p> <p>23 threatened the heart and body of Microsoft as of 1997?</p> <p>24 A. Not the network computers that were created which</p> <p>25 were the Windows terminal server ones, but people weren't</p>	<p style="text-align: right;">Page 25</p> <p>1 truly a network computer like Windows terminal server all the</p> <p>2 way up to a full-blown PC.</p> <p>3 Q. As a continuum, if you will?</p> <p>4 A. Essentially it was -- from a technological point of</p> <p>5 view there is a continuum. In fact, the way it's turned out,</p> <p>6 most points on the continuum have not captured any</p> <p>7 popularity. The PC itself because of its rich functionality</p> <p>8 is very high volume, and then there's some of these true thin</p> <p>9 devices that are high volume. These things that were</p> <p>10 proposed that were in the middle that sort of ran local</p> <p>11 functionality but sort of didn't run full applications, they</p> <p>12 were a complete failure in the marketplace. I mean, even the</p> <p>13 people who had them, you know, just had them sitting there</p> <p>14 eventually discontinued their use.</p> <p>15 Q. I think you called them a few minutes ago the</p> <p>16 medium fat?</p> <p>17 A. Right. But in our industry not everybody agrees on</p> <p>18 terminology, and so there was a tendency to use the term thin</p> <p>19 or network computer in very different ways by different</p> <p>20 companies.</p> <p>21 Q. And for the medium fat device that you've described</p> <p>22 for me twice now, can you recall some non-Microsoft runtimes</p> <p>23 that were in use?</p> <p>24 A. Yeah, a lot of them were proposed there. IBM</p> <p>25 had one. I think one of the most popular was what's called</p>

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<p style="text-align: right;">Page 26</p> <p>1 wind river was used in most of them.</p> <p>2 Q. Mr. Raikes goes on to say, this is more than just</p> <p>3 an OS/2 battle, this is about Windows clients, Windows</p> <p>4 servers, Windows tools and Windows applications. Do you see</p> <p>5 that, sir?</p> <p>6 A. I do.</p> <p>7 Q. Would you agree with Mr. Raikes that the NC battle</p> <p>8 including the continuum from thin to medium fat to fat</p> <p>9 presented more than just an OS/2 battle?</p> <p>10 MR. DOUGLAS: Objection to the form.</p> <p>11 A. I think what Mr. Raikes is saying is if you don't</p> <p>12 buy a PC with Windows, then there's a number of Microsoft</p> <p>13 products that require Windows you aren't a candidate to buy.</p> <p>14 Q. (BY MR. HOSIE) And then he goes on to note, if</p> <p>15 Microsoft technology is relegated into yesterday's technology</p> <p>16 in lieu of the Java operating environment and Java apps,</p> <p>17 Microsoft loses.</p> <p>18 What does that language mean to you, Mr. Gates?</p> <p>19 MR. DOUGLAS: Objection. Form and foundation.</p> <p>20 Q. (BY MR. HOSIE) The language I've just read?</p> <p>21 A. I think he's saying nobody wants to be yesterday's</p> <p>22 technology, that people prefer to be today's technology.</p> <p>23 Q. Well, if people generally, consumers generally</p> <p>24 adopted Java operating environment and Java apps, would</p> <p>25 Microsoft lose, sir?</p>	<p style="text-align: right;">Page 28</p> <p>1 they were doing at what time.</p> <p>2 Q. Do you remember the Java Media Framework or JMF?</p> <p>3 A. I never used it. I know there was a thing created</p> <p>4 by that name.</p> <p>5 Q. What was it, sir, as you understood it?</p> <p>6 A. It would be best to ask Intel.</p> <p>7 Q. Well, I'm asking you, Mr. Gates, what was your</p> <p>8 understanding of JMF?</p> <p>9 A. It must have provided some media-related</p> <p>10 capabilities.</p> <p>11 Q. That's all you can remember, sir?</p> <p>12 A. Well, I never used it.</p> <p>13 Q. Fair enough. But all you can remember about JMF is</p> <p>14 it was something that provided some kind of media</p> <p>15 capabilities?</p> <p>16 MR. DOUGLAS: Objection to the form. Vague and</p> <p>17 ambiguous and argumentative.</p> <p>18 A. I never read a spec for the Java Media Framework.</p> <p>19 Q. (BY MR. HOSIE) I really wasn't asking if you had</p> <p>20 read specs, sir, I'm asking you what you recall about what</p> <p>21 the JMF was.</p> <p>22 MR. DOUGLAS: Objection.</p> <p>23 A. I bet it's related to media just because of the</p> <p>24 name, but the exact notion or even the vague notion of what</p> <p>25 would have been included in that, I'm not sure.</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. DOUGLAS: Objection to the form. Hypothetical.</p> <p>2 A. If historically they would have bought from us and</p> <p>3 now they're buying from somebody else, that represents a --</p> <p>4 Q. (BY MR. HOSIE) A loss?</p> <p>5 A. -- a potential loss of a customer.</p> <p>6 Q. And this was a competitive threat that you</p> <p>7 personally were concerned about in 1997, potentially losing</p> <p>8 these customers?</p> <p>9 A. Which competitor are we talking about?</p> <p>10 Q. I'll take them as a group, sir. You personally</p> <p>11 were concerned that Microsoft was running the risk in 1997 of</p> <p>12 people abandoning a Windows based system and moving to some</p> <p>13 sort of thin or medium fat NC Java driven system?</p> <p>14 MR. DOUGLAS: Objection to the form. Vague and</p> <p>15 ambiguous.</p> <p>16 A. I think at all times I've worked at Microsoft it's</p> <p>17 my job to be concerned about anything that would substitute</p> <p>18 for Microsoft sales.</p> <p>19 Q. (BY MR. HOSIE) All right, sir. Now, Intel was</p> <p>20 actively working with Java, especially in the multimedia area</p> <p>21 in 1997, was it not?</p> <p>22 A. I never had a perfect understanding of what Intel</p> <p>23 was and wasn't doing. They had some Java-related activities</p> <p>24 in different years, and if you want to go into specifics, I</p> <p>25 don't think you'll find me to be the expert on exactly what</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. (BY MR. HOSIE) Give me your best sense, please.</p> <p>2 A. Media related functionality.</p> <p>3 (Deposition Exhibit No. 5 was marked</p> <p>4 for identification.)</p> <p>5 Q. (BY MR. HOSIE) Let me show you what's been marked</p> <p>6 as Exhibit 5. Mr. Gates, I've marked as Exhibit 5 an e-mail</p> <p>7 thread or string. Do you call them threads or strings</p> <p>8 personally?</p> <p>9 A. Either one is fine.</p> <p>10 Q. You're fine with either reference?</p> <p>11 A. Absolutely.</p> <p>12 Q. I will note, sir, that you're not copied on this</p> <p>13 series of e-mails, nor are you a direct recipient as far as I</p> <p>14 can tell, but I'll see if I can jog your memory with</p> <p>15 something that Ms. Kate Seekings says. Who is Kate Seekings?</p> <p>16 A. No idea.</p> <p>17 Q. You recognize that she was at least a Microsoft</p> <p>18 employee?</p> <p>19 A. No.</p> <p>20 Q. On the bottom of this page --</p> <p>21 A. Was she?</p> <p>22 Q. Yes, she was.</p> <p>23 A. Okay.</p> <p>24 Q. There's a paragraph that I'll read and I'm going to</p> <p>25 ask you if a reader disagrees with what I read. Here's the</p>

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<p style="text-align: right;">Page 30</p> <p>1 quote: Intel's foray into Java development may result in a</p> <p>2 crop of Intel --</p> <p>3 A. Where are you?</p> <p>4 Q. First page.</p> <p>5 A. Okay. First page?</p> <p>6 Q. Yeah, right on the cover.</p> <p>7 A. I don't think so.</p> <p>8 Q. And you see these little bullet points. Your</p> <p>9 counsel's pointing it out to you, Mr. Gates.</p> <p>10 A. But that's -- you see, that's this, that's not from</p> <p>11 Kate Seekings' mail, that's from this article.</p> <p>12 Q. Yes, I know, and she is just picking up the bullet</p> <p>13 points, putting them in her own e-mail.</p> <p>14 A. I think it was just copied. It's part of the</p> <p>15 article.</p> <p>16 Q. Right, and I'm about to --</p> <p>17 A. So it's not a statement from her.</p> <p>18 Q. In the sense of Kate Seekings writing the words, I</p> <p>19 think that's right, but I'm going to read the language and</p> <p>20 ask you if agree or disagree with the point made, okay?</p> <p>21 A. Okay.</p> <p>22 Q. Here's the language. Open quote, Intel's foray</p> <p>23 into Java development may result in a crop of Intel-based</p> <p>24 network computers running native JavaOS and applications, as</p> <p>25 well as forthcoming netPCs running Java applets alongside</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. (BY MR. HOSIE) Okay, so you recall a period of</p> <p>2 time when you personally were less than happy with Intel's</p> <p>3 work because you viewed them as creating imperfect software</p> <p>4 that complicated things you wanted to do. Fair summary?</p> <p>5 MR. DOUGLAS: Objection to the form.</p> <p>6 A. At a very high level, yes.</p> <p>7 Q. (BY MR. HOSIE) That's it, that's the only thing</p> <p>8 you were concerned about, sir?</p> <p>9 A. No.</p> <p>10 MR. DOUGLAS: Objection to the form, plus</p> <p>11 argumentative.</p> <p>12 Q. (BY MR. HOSIE) Isn't it true, sir, that you</p> <p>13 personally were distressed and unhappy and even angry that</p> <p>14 Intel was working with Java?</p> <p>15 A. There were aspects of Intel's Java work that we</p> <p>16 felt was bad for Intel and was something that we didn't think</p> <p>17 was fruitful or good for them to do, and there was a period</p> <p>18 of time where we shared with them our views on where Java was</p> <p>19 appropriate and where it wasn't.</p> <p>20 Q. Isn't it true, sir --</p> <p>21 MR. DOUGLAS: Hold on. I'll give a belated</p> <p>22 objection to form on the question. I didn't want to</p> <p>23 interrupt the witness. Go ahead.</p> <p>24 MR. HOSIE: Did you get your objection?</p> <p>25 MR. DOUGLAS: Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 Windows.</p> <p>2 Did you personally feel in 1997 that Intel's foray</p> <p>3 into Java might result in a crop of Intel-based PCs?</p> <p>4 MR. DOUGLAS: Objection. Form and foundation.</p> <p>5 A. It looks like they're confusing what Intel's doing</p> <p>6 on with Java with what might happen in network computers.</p> <p>7 And, you know, as I said, there are many ways that people</p> <p>8 talked about the term network -- used the term network</p> <p>9 computer. But from my point of view, what Intel was doing</p> <p>10 with Java and what they were doing with network computers,</p> <p>11 those are two different things.</p> <p>12 Q. (BY MR. HOSIE) So you're saying you personally</p> <p>13 didn't believe in 1997 that Intel's foray into Java</p> <p>14 development might result in a crop of Intel-based NCs?</p> <p>15 A. No. Intel could have done whatever they wanted to</p> <p>16 do with NC independently of whatever Intel did with Java.</p> <p>17 Q. Now, thinking back to Intel's work in the</p> <p>18 multimedia space in 1997, is it fair to say, Mr. Gates, that</p> <p>19 you personally were unhappy with that work?</p> <p>20 MR. DOUGLAS: Objection to the form.</p> <p>21 A. I don't know the specific year to target it to, but</p> <p>22 there were a period of years where it was frustrating that</p> <p>23 some of the software work that Intel did we felt didn't</p> <p>24 advance Intel's interests and complicated some things we were</p> <p>25 trying to do.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. (BY MR. HOSIE) Mr. Gates, isn't it true that you</p> <p>2 personally coerced Intel into abandoning its JMF work in 1997</p> <p>3 and 1998?</p> <p>4 A. No.</p> <p>5 MR. DOUGLAS: Objection to the form.</p> <p>6 (Deposition Exhibit No. 6 was marked</p> <p>7 for identification.)</p> <p>8 Q. (BY MR. HOSIE) Let me show you what I've marked as</p> <p>9 next in order, Exhibit 6. Mr. Gates, I'd ask you to keep</p> <p>10 your exhibits in a pile there because there's some</p> <p>11 possibility, perhaps a likelihood, that I would cycle back to</p> <p>12 some of them.</p> <p>13 MR. DOUGLAS: I'm keeping them in a pile for him.</p> <p>14 MR. HOSIE: Thank you.</p> <p>15 Q. (BY MR. HOSIE) For the record, Exhibit 6 is a</p> <p>16 cover page, an e-mail that's been redacted on ostensibly</p> <p>17 privileged grounds from Paul Maritz to Marshall Brumer, Aaron</p> <p>18 Contorer and Mr. Gates. Aaron Contorer was your technical</p> <p>19 assistant or TA in this period, Mr. Gates?</p> <p>20 A. Looking at this e-mail, I think it's likely. I</p> <p>21 don't remember exactly when he was, but it's likely.</p> <p>22 Q. When did Eric Rudder replace him, if you recall?</p> <p>23 A. I don't.</p> <p>24 Q. And when Eric Rudder was replaced by Anoop Gupta or was</p> <p>25 there somebody else in between the two?</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. Well, the nature of this so-called technical 2 assistant job was changed between what Aaron did and what 3 Eric did, but it's true that after Aaron left, Eric took the 4 job. It became a much bigger job. And then Anoop took it 5 and it was about -- treated about the same as Eric. I don't 6 remember -- each of these guys worked for me for about two 7 and a half years, I'd say. And now actually Anoop is doing 8 something else, and another person, Alex Ganaris, is now my 9 technical assistant.</p> <p>10 Q. Anoop is now running your RTC group?</p> <p>11 A. That's right.</p> <p>12 Q. Attached to this e-mail is something in the lower 13 left which is noted as Intel 1/30 roadmap, Java/manage. Do 14 you see that?</p> <p>15 A. What is it?</p> <p>16 Q. That denotes an attachment, does it not, sir?</p> <p>17 A. I don't think so. Java/manage?</p> <p>18 Q. Turn to the next page.</p> <p>19 A. It may be an enclosure.</p> <p>20 Q. Fair enough. And do you see the attached e-mail 21 dated February 3, 1997, and the subject line?</p> <p>22 A. Yeah, on the second page it looks like there's an 23 e-mail which may be that somebody took that enclosure and 24 expanded it and printed it out.</p> <p>25 Q. And do you recall receiving this February 3, 1997</p>	<p style="text-align: right;">Page 36</p> <p>1 just left the -- it's not a -- enclosure and attachment is 2 basically the same idea. And they're just saying that Maritz 3 enclosed that in this thing.</p> <p>4 Q. Fair enough. So the enclosure was at least sent to 5 you by the cover e-mail; correct?</p> <p>6 A. If we're interpreting what's going on here 7 correctly, then I got an e-mail with unknown contents that 8 appears from this printout to have enclosed this e-mail.</p> <p>9 Q. Thank you. And you don't recall reading the 10 enclosure, do you, back then?</p> <p>11 A. I don't know why he didn't send it to me directly.</p> <p>12 Q. I don't know.</p> <p>13 A. Okay.</p> <p>14 Q. Do you recall reading this, sir, back then?</p> <p>15 A. This is the kind of meeting summary that I would 16 see from time to time. I don't remember this specific one.</p> <p>17 Q. Mr. Gates, was it your practice if you received a 18 meeting summary to read it?</p> <p>19 A. Some, but absolutely not all of them.</p> <p>20 Q. Sure. It would depend on --</p> <p>21 A. I mean, this is classic because, you know, how many 22 different things -- you know, like take Intel code names. I 23 see about 20 Intel code names just on the first page. I 24 wouldn't have been knowledgeable enough to interpret all of 25 those things, but typically meeting with Intel, an important</p>
<p style="text-align: right;">Page 35</p> <p>1 memo, sir?</p> <p>2 A. I don't see my name on it.</p> <p>3 Q. Do you see your name on the cover page enclosing 4 the Intel 1/30 roadmap Java document?</p> <p>5 A. Well, this is confusing. What is this e-mail?</p> <p>6 Q. Well, it's hard for us to tell, Mr. Gates, because 7 the text has been redacted on privileged grounds --</p> <p>8 A. 100 percent of it?</p> <p>9 Q. Apparently so, but I would only be speculating.</p> <p>10 A. Because all I see is the word privileged.</p> <p>11 Q. That's all I see too.</p> <p>12 A. Okay, so we're seeing the same thing. I never got 13 an e-mail, I don't think ever, that just said privileged so 14 it's hard for me to remember, because clearly --</p> <p>15 Q. There was something here?</p> <p>16 A. At least in the form we're looking at it, it might 17 even have stood out even though it's seven years ago. But so 18 I don't think I got it, anything like that.</p> <p>19 Q. All right, fair enough. And perhaps I'm not 20 understanding something about Microsoft's practices, but 21 doesn't this little envelope with the title mean there's an 22 attachment or an enclosure?</p> <p>23 A. Yeah. Actually, e-mail doesn't work that way now. 24 but back then I think that is the way it worked. I think 25 what's going on here is they got rid of all the text and they</p>	<p style="text-align: right;">Page 37</p> <p>1 meeting, somebody would put notes together.</p> <p>2 Q. And if you got a meeting report about an important 3 meeting with Intel, it would be your practice to read the 4 report, I would think?</p> <p>5 A. There were a lot of meetings with Intel, and some I 6 would get reports on and some I wouldn't. This one I wasn't 7 copied on.</p> <p>8 Q. But my question, sir, was a little different. If 9 there were an important meeting with Intel and if you 10 received a meeting report about that important meeting, it 11 would have been your practice generally speaking to read it; 12 correct?</p> <p>13 A. Well, it's kind of a circular definition. If I 14 didn't read it, you know, that must mean some -- I exercised 15 some judgment about its relative importance to me relative to 16 the use of my time.</p> <p>17 Q. So you're not willing to agree that if there were 18 an important meeting with Intel and you got a summary of the 19 important meeting, it wouldn't be generally speaking your 20 practice to read the summary?</p> <p>21 MR. DOUGLAS: Objection. Asked and answered.</p> <p>22 A. The important meetings were the ones I attended. 23 Those were the ones probably of the greatest importance.</p> <p>24 Q. (By Mr. Douglas) Okay.</p> <p>25 A. Beyond that I'm not sure what you mean by</p>

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<p style="text-align: right;">Page 38</p> <p>1 important.</p> <p>2 Q. If you could turn to the third page of the</p> <p>3 enclosure or attachment, given that they're synonyms, you'll</p> <p>4 see at the top third a heading Java, John LU, Will Swope?</p> <p>5 A. Yeah.</p> <p>6 Q. And a series of bullet points following. John LU</p> <p>7 would of course be John Ludwig?</p> <p>8 A. Yes.</p> <p>9 Q. I'm sorry, Mr. Gates, I didn't mean to rush you.</p> <p>10 Why don't you take a minute to read the bullet points.</p> <p>11 A. (Witness reading document.) Okay.</p> <p>12 Q. Who was Will Swope?</p> <p>13 A. I believe he's an employee of Intel.</p> <p>14 Q. That would be correct, sir.</p> <p>15 A. Hey, what do I get if I get all the answers right?</p> <p>16 Q. How about a heartfelt thanks.</p> <p>17 MR. DOUGLAS: You'd only have another 55,000</p> <p>18 employees.</p> <p>19 Q. (BY MR. HOSIE) I'd like to ask you a few questions</p> <p>20 about the fourth and fifth bullet points down. The fourth</p> <p>21 says MM libraries. What is your understanding of an MM</p> <p>22 library, sir?</p> <p>23 A. No idea.</p> <p>24 Q. Multimedia library, does that help?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 40</p> <p>1 A. I don't know what Intel thought about their work</p> <p>2 and I don't know that much about the work.</p> <p>3 Q. (BY MR. HOSIE) I'm asking you not to read Intel's</p> <p>4 mind but for your understanding of your perception of Intel's</p> <p>5 belief, if you will.</p> <p>6 MR. DOUGLAS: Same objection.</p> <p>7 A. Isn't that asking me about Intel's belief?</p> <p>8 Q. (BY MR. HOSIE) No, I'm asking you about what you</p> <p>9 believed Intel thought.</p> <p>10 A. I don't know what Intel thought.</p> <p>11 Q. I'm asking you about what you thought Intel</p> <p>12 thought.</p> <p>13 A. I didn't know what Intel thought.</p> <p>14 MR. DOUGLAS: Excuse me, please. You're just</p> <p>15 arguing with the witness. He's answered the question.</p> <p>16 Q. (BY MR. HOSIE) Did you have a personal belief</p> <p>17 about Intel's opinion on whether its work with Java, JMF, Sun</p> <p>18 and others was good for the PC space or bad for the PC space?</p> <p>19 MR. DOUGLAS: Objection. Form, vague and</p> <p>20 ambiguous, and foundation.</p> <p>21 A. I always thought about different people at Intel in</p> <p>22 terms of, you know, when I was going to meet with one person</p> <p>23 I would find out what they were thinking. In terms of Java,</p> <p>24 I know over time different people at Intel thought different</p> <p>25 things, did different things, so I don't think there's any</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Doesn't ring a bell? And then the text goes on to</p> <p>2 say, this is the area of most contention since Intel does not</p> <p>3 see their work with Sun and others as bad for the overall PC</p> <p>4 space, only is good for Intel.</p> <p>5 Was it your understanding in 1997 thinking back,</p> <p>6 Mr. Gates, that Intel as you understood it did not see their</p> <p>7 work with Sun and others as bad for the overall PC space,</p> <p>8 just good for Intel?</p> <p>9 A. I don't know what you're talking about.</p> <p>10 Q. You don't know --</p> <p>11 A. When it says this is the area. What's being</p> <p>12 referred to?</p> <p>13 Q. Multimedia, JMF.</p> <p>14 A. What makes you say that?</p> <p>15 Q. MM is an acronym for multimedia libraries, sir.</p> <p>16 MR. DOUGLAS: What's the question?</p> <p>17 A. Yeah, let's be clear on what you're asking me.</p> <p>18 Q. (BY MR. HOSIE) Did you personally feel that</p> <p>19 Intel's work on multimedia JMF, for example, was an area</p> <p>20 where Intel did not see their work with Sun and others as bad</p> <p>21 for the overall PC space, only as good for Intel?</p> <p>22 MR. DOUGLAS: Objection. Form and --</p> <p>23 Q. (BY MR. HOSIE) Do you understand the question,</p> <p>24 Mr. Gates?</p> <p>25 MR. DOUGLAS: Objection. Form and foundation.</p>	<p style="text-align: right;">Page 41</p> <p>1 kind of monolithic, simple answer.</p> <p>2 Q. (BY MR. HOSIE) I think that's fair, because of</p> <p>3 course a corporation is just composed of individuals and</p> <p>4 individuals may feel differently about even the same issues;</p> <p>5 correct?</p> <p>6 MR. DOUGLAS: Objection to the form.</p> <p>7 A. And some may know more and some may know less.</p> <p>8 Q. (BY MR. HOSIE) Was it one of your personal objects</p> <p>9 in 1997 to try to persuade Intel that its work with Java,</p> <p>10 especially in the JMF area, was in fact bad for the overall</p> <p>11 PC space?</p> <p>12 MR. DOUGLAS: Objection to the form.</p> <p>13 MR. BURT: Could you read the question back,</p> <p>14 please?</p> <p>15 (Reporter read back as requested.)</p> <p>16 MR. DOUGLAS: And in addition, objection on</p> <p>17 foundation grounds.</p> <p>18 A. There were definitely discussions about Java and</p> <p>19 how that might hurt Intel's interests. I don't think there</p> <p>20 was anything specific to Java media.</p> <p>21 Q. (BY MR. HOSIE) Do you recall discussions with</p> <p>22 folks at Intel about how Intel's work with Java would hurt</p> <p>23 Microsoft's interests?</p> <p>24 A. We generally didn't focus on that because, you</p> <p>25 know, that wasn't really Intel's concern, but we talked to</p>

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<p style="text-align: right;">Page 42</p> <p>1 them about what we were doing in Java because we had a number</p> <p>2 of Java activities including a contract we'd entered into</p> <p>3 with Sun and some of our own native Java work, and they were</p> <p>4 sometimes confused about what we were and weren't doing.</p> <p>5 Q. My question was a little different, Mr. Gates, I'll</p> <p>6 put it again.</p> <p>7 Do you recall conversations with folks at Intel</p> <p>8 where you expressed concern about Intel's Java work being bad</p> <p>9 for Microsoft?</p> <p>10 MR. DOUGLAS: And I think that question's been</p> <p>11 answered by the witness. He said no.</p> <p>12 Q. (BY MR. HOSIE) Is that a no, sir?</p> <p>13 A. I don't recall any specific question where that</p> <p>14 would have come up. Intel was mostly interested in how we</p> <p>15 thought things were related to Intel strategy. We from time</p> <p>16 to time would share with them our strategy including what we</p> <p>17 were doing with Java.</p> <p>18 Q. Do you recall having a multimedia offsite in early</p> <p>19 February 1997?</p> <p>20 A. No.</p> <p>21 Q. What's the phrase offsite mean in Microsoft</p> <p>22 vernacular as you understand it, sir?</p> <p>23 A. I don't think we've adopted a unique definition of</p> <p>24 that particular word.</p> <p>25 Q. It hasn't been extended, as it were?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Yeah, thank you. And my question was, having read</p> <p>2 it, is your memory refreshed as to a MM offsite in February</p> <p>3 of 1997?</p> <p>4 A. Actually, I think it was a graphics offsite.</p> <p>5 Q. So you do remember the offsite meeting?</p> <p>6 A. No, I don't actually remember the meeting. This</p> <p>7 memo is talking about a lot of graphics issues, and this</p> <p>8 person Deborah Black who did work at Microsoft at the time</p> <p>9 seems to be talking about some discussions including some</p> <p>10 comments by me related to graphics.</p> <p>11 Q. And let me ask you about her recounting of comments</p> <p>12 attributed to you. You'll see them in the middle of the</p> <p>13 page.</p> <p>14 A. Well, that's not the only place.</p> <p>15 Q. Right, but let me start there. Bill G's direction</p> <p>16 on Talisman. You of course would be the Bill G?</p> <p>17 A. Almost certainly.</p> <p>18 Q. What was Talisman, sir?</p> <p>19 A. It was a piece of graphics, hardware and software.</p> <p>20 Q. And this memo recounts that you've said we've</p> <p>21 invested a lot in Talisman and should follow through on it.</p> <p>22 Was that your view in 1997?</p> <p>23 A. I'm not sure. It's the kind of viewpoint I might</p> <p>24 have of something we've invested. Turns out Talisman</p> <p>25 eventually came to an end, but.</p>
<p style="text-align: right;">Page 43</p> <p>1 A. No. I think it means meeting somewhere other than</p> <p>2 in the normal offices.</p> <p>3 Q. And do you recall a meeting somewhere other than</p> <p>4 the normal offices focusing on multimedia in early February</p> <p>5 1997?</p> <p>6 A. No.</p> <p>7 Q. Let's see if I can refresh your recollection with</p> <p>8 what I've marked as Exhibit 7.</p> <p>9 (Deposition Exhibit No. 7 was marked</p> <p>10 for identification.)</p> <p>11 Q. (BY MR. HOSIE) Mr. Gates, if at any time you wish</p> <p>12 to take a break, just let me know.</p> <p>13 A. (Witness reading document.) Okay. What's the</p> <p>14 question?</p> <p>15 Q. Does reading this MM offsite summary refresh your</p> <p>16 recollection of a multimedia offsite meeting in February</p> <p>17 1997?</p> <p>18 A. I wonder what the offsite -- there's clearly an</p> <p>19 offsite, but I wonder what the focus of it was?</p> <p>20 MR. DOUGLAS: Well, do you want the witness just to</p> <p>21 read the e-mail, and your question then is does it refresh</p> <p>22 his recollection of being there?</p> <p>23 Q. (BY MR. HOSIE) I'm sorry, Mr. Gates, I thought you</p> <p>24 had read this e-mail.</p> <p>25 A. I've read it now.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. And the next point, and let me quote this, we need</p> <p>2 to close the Intel issue - preferably with Intel as our key</p> <p>3 partner. However, we cannot give in to Intel and allow them</p> <p>4 to ship Talisman technology on non-Windows systems. Key</p> <p>5 issue is preventing Intel to use Talisman with Java VM. VM</p> <p>6 would be short for virtual machine, sir?</p> <p>7 A. Uh-huh.</p> <p>8 Q. Did you personally think it was a key issue to</p> <p>9 prevent Intel from using Talisman with Java virtual machine?</p> <p>10 MR. DOUGLAS: Objection to form and foundation.</p> <p>11 A. I know we'd invested a lot -- I don't recall what's</p> <p>12 being discussed when Deborah wrote that. I know we've</p> <p>13 invested a lot in Talisman and we said to Intel, are you</p> <p>14 willing to pay us a royalty when our intellectual property</p> <p>15 gets used, and they had said no, you have to get any benefit</p> <p>16 from your inventions through the sales of Windows. And then</p> <p>17 we said, okay, then we can only support it in the Windows</p> <p>18 environment. And, you know, that's the way that came out.</p> <p>19 Now, Talisman, you know, it became moot that even</p> <p>20 though they wouldn't pay us for our inventions, we</p> <p>21 eventually, although actually we have a lot of patents that</p> <p>22 are valuable today, we actually never ended up productizing</p> <p>23 that work in this time frame.</p> <p>24 Q. (BY MR. HOSIE) Is it your testimony, Mr. Gates,</p> <p>25 that you did feel that preventing Intel from using Talisman</p>

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<p style="text-align: right;">Page 46</p> <p>1 with Java virtual machine was a key issue but only because of</p> <p>2 IP royalty issues?</p> <p>3 MR. DOUGLAS: Objection to the form.</p> <p>4 A. The issue is are we going to get paid anything when</p> <p>5 Talisman is used, that's all. And we thought because we'd</p> <p>6 done some invention that we ought to get paid.</p> <p>7 Q. (BY MR. HOSIE) So your testimony here today, sir,</p> <p>8 is that your only concern with Talisman being used with the</p> <p>9 Java virtual machine was whether you were paid for your</p> <p>10 intellectual property?</p> <p>11 MR. DOUGLAS: Objection to the form.</p> <p>12 A. I'm not commenting at all about anything other than</p> <p>13 reading this memo that reminds me of only one concern which</p> <p>14 is whether we were paid at all for the Talisman inventions.</p> <p>15 Q. (BY MR. HOSIE) Do you recall that you personally</p> <p>16 had any other concerns about Intel using Talisman with the</p> <p>17 Java virtual machine?</p> <p>18 A. No.</p> <p>19 Q. So the only concern you can recall is one having to</p> <p>20 do with IP royalty streams? Is that your testimony?</p> <p>21 A. Whether we got paid at all for our Talisman work,</p> <p>22 just that.</p> <p>23 Q. And that's the key issue that you believe you</p> <p>24 discussed at this multimedia offsite?</p> <p>25 A. I'm not sure.</p>	<p style="text-align: right;">Page 48</p> <p>1 Mr. Gates, I'll give you a chance to read this</p> <p>2 before I ask questions, but let me identify it for the</p> <p>3 record. It is an e-mail thread or string that ends in a</p> <p>4 chronological sense with an e-mail from Marshall Brumer to</p> <p>5 Bill Gates, dated February 24, 1997.</p> <p>6 A. (Witness reading document.) Okay. I mean, do I</p> <p>7 need to read it all?</p> <p>8 Q. Well, if you could read the first page I think that</p> <p>9 would be helpful, sir.</p> <p>10 A. (Witness reading document.) Okay.</p> <p>11 Q. Sir, I assume you have no recollection but let me</p> <p>12 ask, in the spirit of optimism. Do you recall receiving this</p> <p>13 e-mail from Marshall Brumer in February 1997?</p> <p>14 MR. DOUGLAS: Objection to the form.</p> <p>15 A. I don't know what you mean by optimism.</p> <p>16 Q. (BY MR. HOSIE) Well, let me rephrase my question.</p> <p>17 Do you recall getting this e-mail from Marshall Brumer on or</p> <p>18 about February 24, 1997?</p> <p>19 A. No.</p> <p>20 Q. All right, sir. Who is Marshall Brumer, please?</p> <p>21 A. He's an employee of Microsoft who for a period of</p> <p>22 time managed our liaison with Intel.</p> <p>23 Q. Earlier you told me you weren't sure who Kate</p> <p>24 Seekings is. You see that this e-mail identifies Kate</p> <p>25 Seekings as a PM or project manager in the Java group?</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Now, beginning in February of 1997, you had a</p> <p>2 series of conversations with Andy Grove of Intel about</p> <p>3 Intel's Java work, did you not, sir?</p> <p>4 A. Throughout a period of many years I had many</p> <p>5 conversations with Andy. I have no idea in what time period</p> <p>6 Java-related issues might have come up. It might have</p> <p>7 started before that, after that, but there were many years</p> <p>8 there where I've talked to Andy about a large range of</p> <p>9 topics.</p> <p>10 Q. And you recall there was a period of time when one</p> <p>11 of those topics was Intel's work with Java?</p> <p>12 A. Not so much Intel's work with Java, although that</p> <p>13 came up, it was just the whole notion of what was Microsoft</p> <p>14 doing with Java, how is that affecting the industry. Java</p> <p>15 refers to quite a range of things from a computer language to</p> <p>16 an intermediate representation to various runtime activities,</p> <p>17 and it's a term that was used by different people even within</p> <p>18 one company and very different ways and, you know, a hot</p> <p>19 topic in the computer industry. And so during the years it</p> <p>20 was a hot topic, it was one of the things that would have</p> <p>21 come up in my meetings with Andy.</p> <p>22 (Deposition Exhibit No. 8 was marked</p> <p>23 for identification.)</p> <p>24 Q. (BY MR. HOSIE) Let me show you what I've marked as</p> <p>25 our next in order, 8.</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I wonder which group she was in.</p> <p>2 Q. Would have been a Microsoft group as you read this</p> <p>3 e-mail?</p> <p>4 A. It appears to be, yes.</p> <p>5 Q. Now, the first sentence references a call that you</p> <p>6 had scheduled with Andy. Do you see that reference?</p> <p>7 A. It appears to refer to the fact I'm going to talk</p> <p>8 to Andy.</p> <p>9 Q. And that would be Andy Grove of Intel?</p> <p>10 MR. DOUGLAS: Objection to the form.</p> <p>11 A. Almost certainly.</p> <p>12 Q. (BY MR. HOSIE) And he was the CEO of Intel at the</p> <p>13 time?</p> <p>14 A. That's right.</p> <p>15 Q. And this is the Andy Grove that you've talked to</p> <p>16 frequently over the years about issues in the computer space?</p> <p>17 A. Right.</p> <p>18 Q. Mr. Brumer goes on to say that at a high level we</p> <p>19 are most concerned that Intel is helping one of our, in bold,</p> <p>20 strongest competitors by supporting a scheme that allows</p> <p>21 first Windows to be replaced by JavaSoft work and then</p> <p>22 subsequently allowing Intel's x86 to be replaced by Sun's</p> <p>23 CPUs for Java. Do you see that, sir?</p> <p>24 A. I do.</p> <p>25 Q. And did you personally share that concern in 1997</p>

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<p style="text-align: right;">Page 50</p> <p>1 specifically, that Intel was helping one of Microsoft's</p> <p>2 strongest competitors?</p> <p>3 MR. DOUGLAS: Objection to the form.</p> <p>4 A. Intel's always had activities with our competitors.</p> <p>5 That's no surprise, if that's what you mean.</p> <p>6 Q. (BY MR. HOSIE) It wasn't my question, Mr. Gates.</p> <p>7 My question was, were you concerned, you personally concerned</p> <p>8 that Intel was helping one of Microsoft's strongest</p> <p>9 competitors?</p> <p>10 MR. DOUGLAS: Same objection.</p> <p>11 A. At all times we knew that Intel would be doing</p> <p>12 things with our competitors.</p> <p>13 Q. (BY MR. HOSIE) Do you recall the question I asked,</p> <p>14 sir?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Could you please answer it?</p> <p>17 MR. DOUGLAS: Objection. You're just arguing with</p> <p>18 the witness. And, Mr. Gates, if you'd like to have your</p> <p>19 answer read back, the prior question and answer read back to</p> <p>20 determine whether there's anything else you can add, you may</p> <p>21 have that done as well.</p> <p>22 Q. (BY MR. HOSIE) Would you like me to put my</p> <p>23 question again, sir?</p> <p>24 A. Go ahead.</p> <p>25 Q. I will. Mr. Gates, were you personally concerned</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. DOUGLAS: Objection. Form and foundation.</p> <p>2 A. Intel chose to do work related to Java, and we</p> <p>3 explained, as the mail says, that that actually could work</p> <p>4 against their interests. And they took our input and did</p> <p>5 whatever they wanted to do.</p> <p>6 Q. (BY MR. HOSIE) So your testimony, Mr. Gates, is</p> <p>7 that you were concerned but it was purely altruistic, and a</p> <p>8 concern for Intel's well-being?</p> <p>9 A. No, I'm --</p> <p>10 MR. DOUGLAS: Objection to form.</p> <p>11 A. I'm certain that's a bad summary of what I said.</p> <p>12 Q. (BY MR. HOSIE) That doesn't sound right, does it?</p> <p>13 A. No. You have a hard time summarizing what I'm</p> <p>14 saying.</p> <p>15 Q. Well, let me ask my question again.</p> <p>16 Were you concerned that Intel was supporting a</p> <p>17 scheme to replace Windows with JavaSoft?</p> <p>18 MR. DOUGLAS: Objection to the form.</p> <p>19 Q. (BY MR. HOSIE) Do you understand the question,</p> <p>20 sir?</p> <p>21 A. Yeah. Are you asking me about Brumer's mail or</p> <p>22 just my general feeling?</p> <p>23 Q. I'm asking you to think back and tell me whether</p> <p>24 you personally were concerned in 1997 that Intel was</p> <p>25 supporting a scheme to replace Windows with JavaSoft.</p>
<p style="text-align: right;">Page 51</p> <p>1 in 1997 that Intel was helping one of Microsoft's strongest</p> <p>2 competitors?</p> <p>3 MR. DOUGLAS: Objection. Form, plus asked and</p> <p>4 answered.</p> <p>5 A. I'm not sure I know what you mean by concern.</p> <p>6 Intel worked with lots of software companies including</p> <p>7 Microsoft, a lot with Microsoft, and they did a lot with</p> <p>8 Microsoft's competitors at all times. So it wasn't a concern</p> <p>9 in the sense that we always expected that to be the case.</p> <p>10 Q. (BY MR. HOSIE) So you're saying this is a concern</p> <p>11 that you personally did not have? Is that your testimony?</p> <p>12 MR. DOUGLAS: Objection to the form.</p> <p>13 A. I didn't expect that ever not to be the case. I</p> <p>14 did think that we could talk to Intel about what we thought</p> <p>15 would be helpful to Intel or would hurt Intel.</p> <p>16 Q. (BY MR. HOSIE) Well, I'll ask my question one last</p> <p>17 time, sir.</p> <p>18 Did you personally share the concern that Intel was</p> <p>19 helping one of Microsoft's strongest competitors? If you</p> <p>20 could answer that yes or no, I would appreciate it.</p> <p>21 MR. DOUGLAS: Same objection.</p> <p>22 A. Yeah, I think I've answered that.</p> <p>23 Q. (BY MR. HOSIE) Okay. And were you personally</p> <p>24 concerned that Intel was helping support a scheme that would</p> <p>25 have Windows be replaced by JavaSoft?</p>	<p style="text-align: right;">Page 53</p> <p>1 MR. DOUGLAS: Same objection.</p> <p>2 A. I think it's incorrect to say that Intel as a whole</p> <p>3 was supporting such a scheme. They were doing things that</p> <p>4 were -- could be viewed as helpful to that, they were doing</p> <p>5 lots and lots of things that could be viewed as not helpful</p> <p>6 to that. Intel was engaged in a huge range of activities,</p> <p>7 and I think the e-mail that you've got here is talking about</p> <p>8 one particular Intel activity, not Intel as a whole.</p> <p>9 Q. (BY MR. HOSIE) And was Intel's work to support a</p> <p>10 scheme to replace Windows with JavaSoft a concern of yours,</p> <p>11 Mr. Gates?</p> <p>12 MR. DOUGLAS: Same objection.</p> <p>13 A. Intel was doing a variety of things with Java.</p> <p>14 It's not my view -- you're reading from Brumer's mail.</p> <p>15 Various things they were doing could have helped various</p> <p>16 aspects of Java. It was not some big Intel top level</p> <p>17 strategy to cause Windows to be replaced, that I can say for</p> <p>18 sure. They were doing some things that were helpful to</p> <p>19 Windows, some things that were helpful to our competitors,</p> <p>20 and that was always the case. The whole time we worked with</p> <p>21 Intel, they chose what to do with our competitors, they chose</p> <p>22 what to do with us.</p> <p>23 Q. (BY MR. HOSIE) You weren't telling Intel what to</p> <p>24 do, you were telling them what to do.</p> <p>25 A. We often would share with them our view of the</p>

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<p style="text-align: right;">Page 54</p> <p>1 industry and then Intel would decide what it wanted to do.</p> <p>2 Q. Because it wouldn't be -- well, strike that, let me</p> <p>3 go back to my question.</p> <p>4 Focusing on that aspect of Intel's work that</p> <p>5 involved Intel supporting a scheme to replace Windows with</p> <p>6 JavaSoft, that aspect of the work gave you, Bill Gates,</p> <p>7 heartburn; fair?</p> <p>8 MR. DOUGLAS: Objection to the form. Vague and</p> <p>9 ambiguous.</p> <p>10 A. No. Intel didn't have a view to do something that</p> <p>11 was monolithic in nature. They had ways that they were</p> <p>12 engaging in optimizing Java things on the Intel architecture.</p> <p>13 Some of those we thought worked against Intel's interests and</p> <p>14 we shared our view on that. But it wasn't some grand scheme</p> <p>15 at Intel related to this.</p> <p>16 Q. (BY MR. HOSIE) You see there's the attached Kate</p> <p>17 Seeking's memo that Mr. Brumer forwarded to you?</p> <p>18 A. E-mail, yes.</p> <p>19 Q. Thank you, e-mail memo. And there's a heading</p> <p>20 called Intel's involvement?</p> <p>21 A. I see that.</p> <p>22 Q. And Ms. Seeking says Intel is working with</p> <p>23 Sun/JavaSoft and partners on defining Java Media Framework.</p> <p>24 Do you see that, sir?</p> <p>25 A. Uh-huh.</p>	<p style="text-align: right;">Page 56</p> <p>1 for the record that this is an e-mail thread that ends with</p> <p>2 an e-mail from Mr. Gates to Jim Allchin, dated February 20,</p> <p>3 1997.</p> <p>4 A. I've read the top of it.</p> <p>5 Q. (BY MR. HOSIE) You recall this e-mail, I'm sure,</p> <p>6 sir?</p> <p>7 A. No.</p> <p>8 Q. Was it one of the e-mails shared with you by your</p> <p>9 lawyers yesterday?</p> <p>10 A. I believe it was.</p> <p>11 Q. And how about the other exhibits I've marked? Were</p> <p>12 any of those shared with you yesterday?</p> <p>13 A. We'd have to go back through them. I don't think</p> <p>14 so, but do you want me to go back through them?</p> <p>15 Q. If you wouldn't mind. Just quickly rifle through</p> <p>16 them and tell me if any of these were part of the mysterious</p> <p>17 nine.</p> <p>18 MR. DOUGLAS: Objection to the form.</p> <p>19 MR. HOSIE: Sounds like a bad Hollywood movie, the</p> <p>20 mysterious nine.</p> <p>21 A. Eight might have been; 7, no.</p> <p>22 MR. DOUGLAS: Mr. Gates, frankly, I think we</p> <p>23 shouldn't do this exercise. This does violate the</p> <p>24 attorney-client privilege to go into specifically what was</p> <p>25 discussed with you yesterday. Asking about the specific</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. And she goes on to describe something, something</p> <p>2 about the JMF. Do you see that?</p> <p>3 A. Yeah, it says telephony APIs.</p> <p>4 Q. Well, JMF, animation, 3D, and telephony. Those are</p> <p>5 separated by commas, are they not, sir?</p> <p>6 A. Are you suggesting that the animation and 3D were</p> <p>7 not part of JMF?</p> <p>8 Q. Well, I'm going to ask you this. Has reading this</p> <p>9 refreshed your recollection of what JMF was, sir?</p> <p>10 A. I'm more confused now that I'm looking at this.</p> <p>11 Q. Certainly the phrase Java multimedia is one that</p> <p>12 you yourself used back in 1997, is it not, sir?</p> <p>13 A. As a formal term to refer to a particular project,</p> <p>14 no, but the notion that people were doing multimedia type</p> <p>15 work related to Java, certainly we knew that was going on and</p> <p>16 we'd talk about the fact it was going on.</p> <p>17 Q. And when you use the phrase Java multimedia, what</p> <p>18 did you mean by it?</p> <p>19 A. Just any activity related to Java that involved</p> <p>20 supporting multimedia.</p> <p>21 Q. Let me show you our next in order, Exhibit 9.,</p> <p>22 Mr. Gates.</p> <p>23 (Deposition Exhibit No. 9 was marked</p> <p>24 for identification.)</p> <p>25 MR. HOSIE: As Mr. Gates reads this, let me make</p>	<p style="text-align: right;">Page 57</p> <p>1 exhibits crosses that line, so I'll instruct you not to</p> <p>2 answer further.</p> <p>3 Q. (BY MR. HOSIE) Mr. Gates, though, you do recall</p> <p>4 that Exhibit 9 was shared by your counsel with you yesterday?</p> <p>5 MR. DOUGLAS: Well, Mr. Gates, I'll instruct you</p> <p>6 not to answer. You've already answered it.</p> <p>7 MR. HOSIE: I think the bell's a little rung,</p> <p>8 Counsel.</p> <p>9 MR. DOUGLAS: He's already answered, but I would</p> <p>10 instruct him not to --</p> <p>11 Q. (BY MR. HOSIE) Fair enough. Let me move on, then.</p> <p>12 Prior so seeing this document yesterday, do you recall seeing</p> <p>13 it?</p> <p>14 A. No.</p> <p>15 Q. You say to Mr. Allchin in your e-mail, if Intel has</p> <p>16 a real problem with us supporting this then they will have to</p> <p>17 stop supporting Java multimedia the way they are. I would</p> <p>18 gladly give up supporting this if they would back off from</p> <p>19 their work on Java which is terrible for Intel. I have a</p> <p>20 call with Andy on this topic coming up on Monday.</p> <p>21 Sir, what was your concern with Intel's Java</p> <p>22 multimedia as you describe it here?</p> <p>23 What's going on here is we're talking about some</p> <p>24 support we plan to do for AMD.</p> <p>25 Q. An Intel competitor?</p>

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<p style="text-align: right;">Page 58</p> <p>1 A. And we went ahead and did that work for AMD. We</p> <p>2 thought that -- we were worried about how Intel would react</p> <p>3 to it, and if they'd had a super negative reaction, we were</p> <p>4 wondering how we were going to deal with that. In fact, we</p> <p>5 went ahead with this work, we did this work, and Intel didn't</p> <p>6 do anything that related to that.</p> <p>7 Q. To your knowledge, Mr. Gates, did anyone at</p> <p>8 Microsoft communicate to Intel that Microsoft would not</p> <p>9 support AMD in this area if Intel stopped working on Java</p> <p>10 multimedia?</p> <p>11 A. No.</p> <p>12 Q. How do you know that, sir?</p> <p>13 MR. DOUGLAS: Objection.</p> <p>14 A. I know what I know. I thought you asked me what I</p> <p>15 knew. And how do I know what I know?</p> <p>16 Q. (BY MR. HOSIE) Yeah. How do you know that no one</p> <p>17 did that?</p> <p>18 A. No, you asked me if I knew whether anyone did it,</p> <p>19 and I said no, I didn't -- as far as I know, no one did it.</p> <p>20 This was about our concern about what Intel would do, what --</p> <p>21 how Intel would react to what we were doing with AMD.</p> <p>22 Q. Okay. You seem to have a desire to have Intel stop</p> <p>23 supporting Java multimedia here, do you not, sir?</p> <p>24 MR. DOUGLAS: Objection to the form.</p> <p>25 A. No. What I'm showing is that there's an irony that</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. DOUGLAS: Objection to the form.</p> <p>2 A. Absolutely not. It says if Intel has a real</p> <p>3 problem with this, with us supporting this, which fortunately</p> <p>4 that didn't happen.</p> <p>5 Q. (BY MR. HOSIE) And you're here saying if Intel has</p> <p>6 a real problem with this, you know what, we won't do it if</p> <p>7 they stop supporting Java.</p> <p>8 A. No, I'm saying it would be inconsistent for them to</p> <p>9 come to us and say we shouldn't do the AMD work.</p> <p>10 (Deposition Exhibit No. 10 was marked</p> <p>11 for identification.)</p> <p>12 Q. (BY MR. HOSIE) Let me show you what's been marked</p> <p>13 as Exhibit 10, Mr. Gates. For the record, Exhibit 10 is an</p> <p>14 e-mail thread that has as its originating e-mail a mail from</p> <p>15 Mr. Gates to Paul Maritz, dated February 25, 1997. Have you</p> <p>16 read it, sir?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall this e-mail?</p> <p>19 A. No.</p> <p>20 Q. Is this one of the nine reviewed with you</p> <p>21 yesterday?</p> <p>22 MR. DOUGLAS: Mr. Gates, I'm going to instruct you</p> <p>23 not to answer. And, Mr. Hosie, you know, save the time,</p> <p>24 because I'll instruct him on all of the questions.</p> <p>25 MR. HOSIE: Thank you. Just, I don't need to</p>
<p style="text-align: right;">Page 59</p> <p>1 if Intel tells us that they don't want us to do something</p> <p>2 with AMD, that that wouldn't be consistent on their part.</p> <p>3 And in fact, Intel did behave consistently. We went ahead</p> <p>4 with this work on AMD and they went ahead with their work on</p> <p>5 Java, whatever they wanted to do.</p> <p>6 Q. (BY MR. HOSIE) Mr. Gates, you said in 1997, I</p> <p>7 would gladly give up supporting this if they would back off</p> <p>8 from their work on Java. Do you see that?</p> <p>9 A. Which is terrible for Intel.</p> <p>10 Q. What was your concern here, sir?</p> <p>11 A. I was worried that when we did this AMD work, Intel</p> <p>12 would come to us and say, hey, we're upset that you're doing</p> <p>13 this work. That was my concern.</p> <p>14 Q. What was your concern about Intel's work on Java,</p> <p>15 Mr. Gates?</p> <p>16 A. This e-mail is about what our reaction would be if</p> <p>17 they objected to our AMD work, which fortunately that didn't</p> <p>18 come up.</p> <p>19 Q. My question was different and I'll put it again.</p> <p>20 A. Not related to the mail?</p> <p>21 Q. What was your concern about Intel's Java work, sir?</p> <p>22 A. That's not what this mail's about.</p> <p>23 Q. Don't you here say, you know what, we won't help</p> <p>24 AMD, and in exchange we want Intel to stop supporting Java</p> <p>25 multimedia?</p>	<p style="text-align: right;">Page 61</p> <p>1 preserve my record by asking if you'll stipulate that any</p> <p>2 such request will draw the same instruction?</p> <p>3 MR. DOUGLAS: If you wish to ask him about any</p> <p>4 question -- any exhibit, I will instruct him not to answer.</p> <p>5 MR. HOSIE: Thank you.</p> <p>6 Q. (BY MR. HOSIE) Mr. Gates, in your e-mail you</p> <p>7 summarize a call you had on February 25 with Andy Grove;</p> <p>8 correct?</p> <p>9 A. That's what it appears I'm doing in this e-mail,</p> <p>10 yes.</p> <p>11 Q. And you say, I called Andy today to talk to him</p> <p>12 about our sensitivities about Java. Do you see that, sir?</p> <p>13 A. That's not the whole sentence.</p> <p>14 Q. That's the part I read. Did I read that correctly?</p> <p>15 A. You read a partial sentence correctly.</p> <p>16 Q. What were your sensitivities about Java?</p> <p>17 MR. DOUGLAS: Objection to form and foundation.</p> <p>18 A. As I've said, we were doing some things related to</p> <p>19 Java and our competitors were doing some things related to</p> <p>20 Java, and so we were interested in seeing if there were some</p> <p>21 common views about the Java phenomena. In this mail I say,</p> <p>22 you know, we got into a discussion of the whole Java</p> <p>23 phenomena. He thinks the role of IBM is the most interesting</p> <p>24 element here. He thinks mutually we need to do a better job</p> <p>25 competing with Sun. Sun's one of the companies that's</p>

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<p style="text-align: right;">Page 62</p> <p>1 involved with the Java activities.</p> <p>2 Q. (BY MR. HOSIE) Sure.</p> <p>3 A. And so, you know, we wanted to understand, as it</p> <p>4 says here, we wanted to get some people together to talk</p> <p>5 about what's going on, see if these are things that mutually</p> <p>6 weaken or strengthen the things that Microsoft and Intel can</p> <p>7 do together. And so it's about getting more dialogue on</p> <p>8 these topics going with Intel.</p> <p>9 Q. On the topic of more dialogue, third paragraph you</p> <p>10 say, he, he being Grove, said Gelsinger made an offer when</p> <p>11 they went through what they were doing to have us tell them</p> <p>12 what they should be doing and that Ludwig had not said</p> <p>13 anything in response.</p> <p>14 Do you recall Andy Grove making the point to you</p> <p>15 that Gelsinger of Intel had already offered to John Ludwig to</p> <p>16 have Microsoft tell Intel what they should be doing?</p> <p>17 MR. DOUGLAS: Objection to form and foundation.</p> <p>18 A. No. They would listen to our advice. They</p> <p>19 wouldn't follow it very uniformly, but it appears that the</p> <p>20 guy was open to getting our advice.</p> <p>21 Q. (BY MR. HOSIE) Intel's a very big company in 1997;</p> <p>22 correct?</p> <p>23 A. Big and absolute and very big relative to</p> <p>24 Microsoft.</p> <p>25 Q. And a sophisticated company?</p>	<p style="text-align: right;">Page 64</p> <p>1 going to ask you about one paragraph. As a courtesy I'll</p> <p>2 tell you what it is. It's the second paragraph from the</p> <p>3 bottom on the second page which is in the body of an e-mail</p> <p>4 you wrote to a whole series of folks at Microsoft on</p> <p>5 Wednesday, April 9th.</p> <p>6 A. Okay.</p> <p>7 Q. First, sir, please identify that this is in fact in</p> <p>8 part an e-mail you sent on April 9th to Paul Maritz and</p> <p>9 others at Microsoft.</p> <p>10 A. Yeah, it appears to be an e-mail I'm sending to a</p> <p>11 number of Microsoft executives including Paul about</p> <p>12 discussions I had with Andy Grove of Intel.</p> <p>13 Q. Right. And I think you begin by saying, I had a</p> <p>14 good meeting with Andy on Tuesday night.</p> <p>15 A. Yeah, and this is a long piece of e-mail.</p> <p>16 Q. It is, it's a dense e-mail. That would have been a</p> <p>17 face-to-face meeting, sir?</p> <p>18 MR. DOUGLAS: Objection to the form and preamble,</p> <p>19 by the way.</p> <p>20 A. Yeah, I believe this is talking about a</p> <p>21 face-to-face meeting, yes.</p> <p>22 Q. (BY MR. HOSIE) Now if we could turn to the</p> <p>23 paragraph I've flagged for you on the second page.</p> <p>24 A. What's the third, fourth, fifth, sixth, seventh,</p> <p>25 eighth, ninth, tenth paragraph on that page?</p>
<p style="text-align: right;">Page 63</p> <p>1 A. In general, yes.</p> <p>2 Q. And I mean, I think you're personally on record as</p> <p>3 saying that Andy Grove is one of the most perspicacious and</p> <p>4 capable high tech executives in your experience?</p> <p>5 A. I don't think I ever called his perspicacious, but</p> <p>6 I used very positive superlatives to talk about Andy and the</p> <p>7 work he did.</p> <p>8 Q. Not perspicacious but equally superlative?</p> <p>9 A. I'm not sure what equally superlative means.</p> <p>10 Superlative certainly.</p> <p>11 Q. And then the third paragraph from the bottom said,</p> <p>12 Andy's offer was that he would get his best people together,</p> <p>13 three or four total, and we would do the same and we could</p> <p>14 sit down and talk about what is going on. He's going to</p> <p>15 check with a lawyer first to make sure it's okay to have this</p> <p>16 kind of talk.</p> <p>17 Did that meeting actually happen, sir, do you know?</p> <p>18 A. I don't know. I know there were lots of meetings</p> <p>19 related to what was going on in the industry, and one of the</p> <p>20 things going on in the industry was what we all, various</p> <p>21 companies did related to Java.</p> <p>22 (Deposition Exhibit No. 11 was marked</p> <p>23 for identification.)</p> <p>24 Q. (BY MR. HOSIE) Let me show you what's been marked</p> <p>25 as Exhibit 11. It is another e-mail thread. Mr. Gates, I</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Or more efficiently, second from the bottom.</p> <p>2 A. Okay.</p> <p>3 Q. You had a chance to read this paragraph?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall Mr. Grove asking you where Microsoft</p> <p>6 was drawing the line on Java?</p> <p>7 A. We can read this paragraph into the record if you</p> <p>8 want.</p> <p>9 Q. Do you recall him saying that to you, sir?</p> <p>10 A. I remember that we discussed Java in many different</p> <p>11 meetings. The particular question about drawing the line,</p> <p>12 no.</p> <p>13 Q. Would you have written this if in fact he hadn't</p> <p>14 communicated that thought to you in substance?</p> <p>15 A. But you didn't read the sentence.</p> <p>16 Q. My question, sir, would you have written this --</p> <p>17 A. Why don't -- if you want to ask about a sentence in</p> <p>18 the e-mail, don't just take two words, just read the sentence</p> <p>19 and then we can talk about it.</p> <p>20 Q. Well, have you read the sentence, sir?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Do you accurately capture you believe what</p> <p>23 Mr. Grove communicated to you?</p> <p>24 A. I'm sure I tried to. This is a summary of a very</p> <p>25 long meeting, but, you know, as I look at this paragraph, it</p>

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<p style="text-align: right;">Page 66</p> <p>1 looks like I was summarizing some discussion about Java- 2 related topics.</p> <p>3 Q. Okay. And you conclude by saying you think a 4 meeting is a good idea in the next month, do you not?</p> <p>5 A. I wouldn't call that a conclusion, it's one of the 6 things I note. I say, I think we need to do this meeting 7 with Intel in the next month. Paul would have to be there 8 but I would not have to be.</p> <p>9 Q. Do you recall if that meeting ever came about?</p> <p>10 A. No.</p> <p>11 (Deposition Exhibit No. 12 was marked 12 for identification.)</p> <p>13 Q. (BY MR. HOSIE) Let me show you what's been marked 14 as Exhibit 12.</p> <p>15 A. Okay.</p> <p>16 Q. For the record, Exhibit 12 is another e-mail 17 thread. You are added as a recipient on the final e-mail, 18 are you not, sir, top of the page?</p> <p>19 A. Yes.</p> <p>20 Q. And do you recall seeing this e-mail before?</p> <p>21 A. No.</p> <p>22 Q. Do you recall an issue in 1997 with Intel trying to 23 drive Java into the MPEG standard?</p> <p>24 A. Yes.</p> <p>25 Q. What was the issue, sir?</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Yes.</p> <p>2 Q. And he says, and I quote, this is a disaster of the 3 first order, closed quote.</p> <p>4 Did you agree, sir, that Intel trying to drive Java 5 into MPEG was a disaster of the first order for Microsoft?</p> <p>6 MR. DOUGLAS: Objection to the form.</p> <p>7 A. No, I think that's too strong. As I said, it's not 8 related to Java runtime work, this is related to intellectual 9 property in an international standard.</p> <p>10 Q. (BY MR. HOSIE) You personally thought it was 11 critically important to stop Intel trying to drive Java into 12 MPEG; correct?</p> <p>13 A. No.</p> <p>14 MR. DOUGLAS: Objection to the form.</p> <p>15 A. This is about whether an international standard can 16 be licensed under RAND terms, and Intel messing up 17 potentially. But as I say, I don't think anything ever 18 happened on this in the sense that the international 19 standards people realized that they didn't have the right 20 type of license grant to drive this technology because they 21 didn't have a commitment for RAND licensing. But this is 22 not -- this is related to a standard, a format standard, this 23 is not about software.</p> <p>24 Q. I know, Mr. Gates. Let me ask my question again. 25 Did you not personally feel that Intel trying to</p>
<p style="text-align: right;">Page 67</p> <p>1 A. This is nothing to do with the Java Multimedia 2 Framework, this has to do with MPEG-4, and I think this is 3 still an issue as we speak today in terms of what byte codes 4 are going to be used by these -- the MPEG-4 related standard 5 side. I don't think that was ever resolved.</p> <p>6 Q. What was the issue, Mr. Gates?</p> <p>7 A. Oh, it's just the question of when international 8 standards are done like this, if people had intellectual 9 property related to it, is it available around RAND terms, 10 which the IP that Sun had was not available to us under RAND 11 terms. So it would have meant that the MPEG-4 standard was 12 something that we weren't on an equal footing like 13 international standards generally provide for us to implement 14 that in our products.</p> <p>15 Q. Who was Charles Fitzgerald?</p> <p>16 A. A person who works at Microsoft.</p> <p>17 Q. All right, sir. Now, Mr. Fitzgerald says, and I 18 quote, Intel multimedia people are still complete fucking 19 coconuts. Turns out they are driving Java into the MPEG 20 standard and defend it even after being confronted.</p> <p>21 Sir, do you know anything about who confronted 22 Intel about driving Java into the MPEG standard?</p> <p>23 A. No.</p> <p>24 Q. Now, John Ludwig responds to that mail, does he 25 not?</p>	<p style="text-align: right;">Page 69</p> <p>1 drive Java to be part of MPEG-4 was very important from 2 Microsoft's perspective?</p> <p>3 MR. DOUGLAS: Same objection, plus it's been asked 4 and answered, and argumentative.</p> <p>5 A. I knew that at some point the international 6 standard people would realize they had an intellectual 7 property problem because they have a series of check points 8 where before they really finalize something they make sure 9 the stuff is available on a RAND basis. And so even though 10 some Intel people had confused the issue by proposing certain 11 things there, I didn't think there was that much likelihood 12 that specific issue wouldn't get resolved.</p> <p>13 Q. (BY MR. HOSIE) So you weren't concerned?</p> <p>14 A. It wasn't a big issue for me personally.</p> <p>15 Q. Let me show you what's been previously marked as 16 Exhibit 13, Mr. Gates.</p> <p>17 (Deposition Exhibit No. 13 was marked 18 for identification.)</p> <p>19 Q. (BY MR. HOSIE) I'm going to ask you, sir, about 20 your e-mail in the middle of the first page, dated May 13, 21 1997, 11:15 a.m.</p> <p>22 A. Okay.</p> <p>23 Q. Is this an e-mail you wrote, sir?</p> <p>24 A. It appears to be yes.</p> <p>25 Q. Sent to David Cole and others at Microsoft?</p>

Draft Copy

18 (Pages 66 to 69)

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<p style="text-align: right;">Page 70</p> <p>1 A. That's right.</p> <p>2 Q. And you say, and I quote, did we resolve the issue</p> <p>3 where Intel wanted to have Java be part of MPEG-4? This is</p> <p>4 an issue I would be glad to call Andy on, it's that</p> <p>5 important.</p> <p>6 Have I read that correctly, sir?</p> <p>7 A. That's right.</p> <p>8 Q. Have I read the entirety of your e-mail?</p> <p>9 A. Yeah. I enclosed David Cole's e-mail, but yes.</p> <p>10 Q. Does this refresh your recollection that you</p> <p>11 personally believed Intel trying to have Java be part of</p> <p>12 MPEG-4 was important enough for you to personally call Andy</p> <p>13 Grove?</p> <p>14 A. It's clear I was willing to make that call.</p> <p>15 MR. HOSIE: Why don't we take a break. Off the</p> <p>16 record.</p> <p>17 VIDEO OPERATOR: The time is 2:40 p.m. This</p> <p>18 concludes Tape No. 1 in the deposition of Bill Gates.</p> <p>19 (Recess taken.)</p> <p>20 VIDEO OPERATOR: The time is 2:53 p.m. This begins</p> <p>21 Tape No. 2 in the deposition of Bill Gates.</p> <p>22 (Deposition Exhibit No. 14 was marked</p> <p>23 for identification.)</p> <p>24 Q. (BY MR. HOSIE) Mr. Gates, let me show you what's</p> <p>25 been marked as Exhibit 14. For the record, Exhibit 14 is an</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Your second paragraph says, I did stick a few open</p> <p>2 quote, Barb, closed quote, comments into that e-mail about</p> <p>3 cross-platform which I should have avoided but it's a key</p> <p>4 topic that has me worried.</p> <p>5 What was it about cross-platform that had you</p> <p>6 worried, sir?</p> <p>7 A. What e-mail is being referred to?</p> <p>8 Q. Your e-mail below at the bottom of the page, sir.</p> <p>9 A. I don't think so.</p> <p>10 Q. You don't think so? Did you have a chance to read</p> <p>11 the e-mail at the bottom of the page that carries over to</p> <p>12 Page 2?</p> <p>13 A. Yeah, but that's all about Talisman. I think</p> <p>14 there's another e-mail about cross-platform. It says that --</p> <p>15 see, Ludwig's mail is about cross-platform.</p> <p>16 Q. Yes, X platform.</p> <p>17 A. But it's on top of the Talisman related mail.</p> <p>18 Q. So you think there's another e-mail here with some</p> <p>19 barb comments from you about cross-platform?</p> <p>20 A. Well, Ludwig says right now the only communication</p> <p>21 I have with you about some of these issues is as a side bar</p> <p>22 in mail like below. So what he's saying is that he thinks</p> <p>23 he's getting side bar comments that are confusing him and</p> <p>24 he'd like to meet with me.</p> <p>25 Q. Fair enough. And Mr. Gates, you may be right,</p>
<p style="text-align: right;">Page 71</p> <p>1 e-mail thread that ends with an e-mail from Mr. Gates to John</p> <p>2 Ludwig, categories MMedia, stamped attorneys eyes only on the</p> <p>3 bottom.</p> <p>4 Mr. Gates, I'm going to ask you about your final</p> <p>5 e-mail to John Ludwig and Aaron and Ben, as well as Paragraph</p> <p>6 4 on the some questions attached on the second page.</p> <p>7 A. (Witness reading document.) Okay.</p> <p>8 Q. Sir, you sent the last e-mail out on May 14, 1997,</p> <p>9 did you not?</p> <p>10 A. Right.</p> <p>11 Q. To John Ludwig, amongst others; correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. And the subject is MMedia. What does that mean?</p> <p>14 A. Probably multimedia.</p> <p>15 Q. That's how you would read that?</p> <p>16 MR. DOUGLAS: Actually, it says subject is DirectX</p> <p>17 and Talisman update.</p> <p>18 Q. (BY MR. HOSIE) Categories, MMedia.</p> <p>19 A. Actually, that's unusual that there's a categories</p> <p>20 line there, but anyway the subject is DirectX Intel.</p> <p>21 Q. And the category is MMedia. You would read that as</p> <p>22 multimedia?</p> <p>23 A. Yeah, but I'm confused whether that's something</p> <p>24 that somebody added. I don't remember seeing a</p> <p>25 categories line like that. That's confusing.</p>	<p style="text-align: right;">Page 73</p> <p>1 there may in fact be another e-mail with barbed comments from</p> <p>2 you about cross-platform, but if there is we just don't have</p> <p>3 it.</p> <p>4 MR. DOUGLAS: Objection to the form.</p> <p>5 Q. (BY MR. HOSIE) So let me ask you to turn to the</p> <p>6 second page, sir. This is another e-mail from you, is it</p> <p>7 not?</p> <p>8 A. This is one focused on Talisman, yes.</p> <p>9 Q. And you sent it out on May 13, 1997?</p> <p>10 A. That's right.</p> <p>11 Q. And have you had a chance to read Paragraph 4?</p> <p>12 A. Yeah.</p> <p>13 Q. You wrote Paragraph 4, sir?</p> <p>14 A. Yes.</p> <p>15 Q. These are your words?</p> <p>16 A. The words I used in this e-mail, yes, that's what</p> <p>17 it appears.</p> <p>18 Q. You say, and I quote, the Java platform is the</p> <p>19 greatest threat to us. And let me stop there.</p> <p>20 Did you personally believe that the Java platform</p> <p>21 was the greatest threat to Microsoft as of May 1997?</p> <p>22 MR. DOUGLAS: Objection to form and foundation.</p> <p>23 incomplete sentence.</p> <p>24 A. In terms of what people were doing that was</p> <p>25 directly competitive with the Talisman software layers, yes.</p>

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<p style="text-align: right;">Page 74</p> <p>1 And in many other respects. But in this mail, which is about 2 Talisman, I say in Paragraph 4, what kind of work is going on 3 with Java in this area, which is Talisman. I saw they 4 endorsed a particular audio approach that is some group of 5 Java backers. The Java platform is the greatest threat to us 6 so I wanted to make sure they don't benefit from any of our 7 work and we stay ahead of them.</p> <p>8 Q. (BY MR. HOSIE) Could you read the next sentence, 9 please?</p> <p>10 A. We will not, capital N-O-T, be doing, quote, open 11 Java animation or graphics work despite what the 12 cross-platform promoters want us to do.</p> <p>13 Q. In what sense was Java's work in this area the 14 greatest threat to Microsoft?</p> <p>15 MR. DOUGLAS: Same objection.</p> <p>16 A. In the sense that to the degrees our competitors 17 did innovative work, that people would see that as 18 potentially -- if they did better work than we did then 19 they'd get ahead, they'd get more software developers, they'd 20 be more successful. And so a lot of this deep Talisman type 21 activity in the industry were by people who were supporting 22 particular Java runtime.</p> <p>23 Q. (BY MR. HOSIE) Now, the second sentence you read, 24 we will N-O-T, not be doing open Java. Was that your 25 personal view at the time?</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Would you consider this a barbed comment, sir?</p> <p>2 MR. DOUGLAS: Objection to the form.</p> <p>3 A. No.</p> <p>4 Q. (BY MR. HOSIE) So you think the barbed comments 5 you refer to in your memo of Wednesday, May 14 must be in 6 some other e-mail?</p> <p>7 A. I'm not sure.</p> <p>8 Q. Sir, as of May 1997, did Microsoft have as a goal 9 getting Intel to drop its involvement in interactive MPEG-4?</p> <p>10 MR. DOUGLAS: Objection to the form. Vague and 11 ambiguous.</p> <p>12 A. Are you saying that we didn't want them to have any 13 involvement of any kind in MPEG-4?</p> <p>14 Q. (BY MR. HOSIE) Was it a goal of yours, sir, to 15 stop Intel from driving Java into the MPEG-4 standard?</p> <p>16 A. We had a goal to make sure that we could license 17 the intellectual property around MPEG-4 on reasonable and 18 non-discriminatory terms. And we had a concern that Intel or 19 anyone else who put the Java stuff in there, that would 20 create the problem that we wouldn't be able to license MPEG-4 21 and create the intraoperability.</p> <p>22 Q. So you're saying yes with that explanation, you had 23 that goal?</p> <p>24 MR. DOUGLAS: Objection to the form. That 25 mischaracterizes the testimony.</p>
<p style="text-align: right;">Page 75</p> <p>1 MR. DOUGLAS: Objection to form. Incomplete 2 sentence.</p> <p>3 A. It says we will not be doing open Java animation or 4 graphics work despite what the cross-platform promoters want 5 us to do.</p> <p>6 Q. (BY MR. HOSIE) What was the problem with having 7 that be cross-platform, sir?</p> <p>8 MR. DOUGLAS: Objection to form and foundation.</p> <p>9 A. Well, I'm glad to speculate. I'm not sure exactly 10 what I meant when I wrote this sentence.</p> <p>11 Q. (BY MR. HOSIE) It has no meaning to you as you 12 read it now, sir?</p> <p>13 A. No, I can say that in general the whole 14 cross-platform thing is, do you do work primarily on Windows 15 and make Windows more attractive or do you do it on multiple 16 systems. And some things we choose to do on multiple 17 systems, like we did our browser and Internet Explorer on 18 UNIX and many other systems, and some things we choose to 19 focus just put all the resources on doing the best we can on 20 top of Windows. And I appear to suggest here at least at 21 this point I didn't think we should do what I call open Java 22 animation or graphics work on non-Windows systems.</p> <p>23 Q. Who were the cross-platform promoters, as you think 24 back?</p> <p>25 A. Good question.</p>	<p style="text-align: right;">Page 77</p> <p>1 A. No, I'm not -- we had a concern that people trying 2 to put Java in there would prevent it from being licensable 3 to us under reasonable and non-discriminatory terms, and 4 Intel was one of the people, I don't know whether in May but 5 in that general time frame, where we said, hey, if you're 6 going to put this technology into this standard, there's a 7 problem because it's not available to us on reasonable and 8 non-discriminatory terms.</p> <p>9 Q. (BY MR. HOSIE) Was it a goal of yours to persuade 10 Intel to stop helping Sun create Java multimedia APIs, 11 especially ones that ran well, i.e. native applications on 12 Windows?</p> <p>13 MR. DOUGLAS: Objection to form. Overbroad.</p> <p>14 A. Intel was always going to decide exactly what it 15 wanted to do. We shared with Intel why we thought some Java- 16 related activities on their part were against their own 17 interests and we explained our own Java strategy.</p> <p>18 Q. (BY MR. HOSIE) Didn't you personally threaten 19 Intel if it didn't stop its work on certain aspects of Java?</p> <p>20 MR. DOUGLAS: Objection to the form.</p> <p>21 A. No.</p> <p>22 Q. (BY MR. HOSIE) That never happened, Mr. Gates?</p> <p>23 A. No.</p> <p>24 MR. DOUGLAS: Objection. Plus it's argumentative. 25 Deposition Exhibit No. 16 was marked</p>

20 (Pages 74 to 77)

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<p style="text-align: right;">Page 78</p> <p>1 for identification.)</p> <p>2 Q. (BY MR. HOSIE) Mr. Gates, let me show you what's</p> <p>3 been marked as Exhibit 16. Counsel, copy for you.</p> <p>4 A. (Witness reading document.) Okay, what's the</p> <p>5 question?</p> <p>6 Q. Sir, I'd like to first direct your attention to the</p> <p>7 e-mail from you in the middle of the page, Sunday, October</p> <p>8 12. You sent it to Jim Allchin and Marshall Brumer and</p> <p>9 others.</p> <p>10 A. Right.</p> <p>11 Q. You wrote this e-mail?</p> <p>12 A. It appears to be an e-mail from me, yes.</p> <p>13 Q. And you reference a critical meeting coming up with</p> <p>14 Intel?</p> <p>15 A. Yes.</p> <p>16 Q. And that would be a meeting with Andy Grove, do you</p> <p>17 believe?</p> <p>18 A. I'd just be guessing. The e-mail doesn't suggest.</p> <p>19 Q. Don't guess, sir. I take it you have no</p> <p>20 independent recollection of this e-mail?</p> <p>21 A. No.</p> <p>22 Q. Do you have any independent recollection of the</p> <p>23 meeting you reference here?</p> <p>24 A. No. At least as of the mail, it appears to be</p> <p>25 something that might happen in the future.</p>	<p style="text-align: right;">Page 80</p> <p>1 what as you recall was an Oracle NC as of early 1997?</p> <p>2 A. Well, when you ask me about a product I think</p> <p>3 about, okay, what did they eventually ship. Here Oracle was</p> <p>4 making a lot of noise about what they were going to do in the</p> <p>5 NC, and so we can go back and look at what they were saying,</p> <p>6 why they thought it was good, what they were saying they were</p> <p>7 going to go after. But even, you know, in those early</p> <p>8 announcement days they changed what they were talking about,</p> <p>9 and then there was no concrete product success that came out</p> <p>10 of that.</p> <p>11 Q. Sir, you reference here an Oracle NC, do you not?</p> <p>12 A. It's the Oracle NC announcements and discussions.</p> <p>13 As of this time I'm pretty sure there was no such product,</p> <p>14 that Oracle was talking about doing some work.</p> <p>15 Q. And what product did you have in mind when you</p> <p>16 reference an Oracle NC in this e-mail you typed yourself?</p> <p>17 MR. DOUGLAS: Objection to form and foundation</p> <p>18 because it doesn't necessarily reference a specific product.</p> <p>19 It talks about Oracle NCs.</p> <p>20 A. Yeah, Oracle was definitely talking about a</p> <p>21 strategy of having these very thin network computers.</p> <p>22 Q. (BY MR. HOSIE) So these would be the thin ones</p> <p>23 with no multimedia capacity or what you earlier described as</p> <p>24 a medium fat?</p> <p>25 A. I'm not sure what at this point they were talking</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Sure. But thinking back now, you don't recall the</p> <p>2 meeting that's referenced here, do you?</p> <p>3 A. I know I met with Andy a number of times. I know I</p> <p>4 met with Intel groups with and without Andy a number of</p> <p>5 times. But a specific meeting that might be referred to</p> <p>6 here, no.</p> <p>7 Q. You say in your mail to Jim Allchin and others that</p> <p>8 you want to convince Intel that they need to stay away from</p> <p>9 Oracle NCs. Do you see that, sir?</p> <p>10 A. Are you going to read the whole sentence?</p> <p>11 Q. Well, let me stop there and ask you, what's an</p> <p>12 Oracle NC, or more accurately, what in early 1997 was your</p> <p>13 understanding of an Oracle NC?</p> <p>14 A. I'm not sure what they ever shipped, to be frank.</p> <p>15 Sun shipped some things they called NCs, but I think the</p> <p>16 Oracle project self-destructed before it ever shipped. So</p> <p>17 it's very different than various Java things where aspects of</p> <p>18 Java did, some we supported, some we didn't become popular.</p> <p>19 NCs actually were a complete bust in the marketplace and many</p> <p>20 proposed things never got in the marketplace. If Oracle NCs</p> <p>21 did get in the marketplace it's in miniscule numbers where</p> <p>22 they never really finished it.</p> <p>23 Q. And you just told me that the Oracle NC was never</p> <p>24 commercial success, but my question was, did it diverge,</p> <p>25 Mr. Gates, and let me put it again, when is specifically,</p>	<p style="text-align: right;">Page 81</p> <p>1 about. They eventually shipped something that was very thin,</p> <p>2 and I think that was just in beta or I don't know if it was</p> <p>3 final. That I know they got enough customer feedback that</p> <p>4 the whole thing fell apart.</p> <p>5 Q. You've given me your best recollection as you sit</p> <p>6 here now?</p> <p>7 A. Yes.</p> <p>8 Q. Why did you want to convince Intel to stay away</p> <p>9 from Oracle NCs as of May 1997, Mr. Gates?</p> <p>10 MR. DOUGLAS: Objection to form and foundation.</p> <p>11 A. Our view was that we should try and convince them</p> <p>12 to do what it says here, which is work more closely with</p> <p>13 Microsoft.</p> <p>14 Q. (BY MR. HOSIE) My question was a little different.</p> <p>15 Why did you want them to stay away from Oracle NCs?</p> <p>16 MR. DOUGLAS: Objection to the form and foundation</p> <p>17 because the language of the document is that they need to</p> <p>18 stay away.</p> <p>19 Q. (BY MR. HOSIE) Are you more comfortable if I use</p> <p>20 that formulation? I will, let me ask it that way.</p> <p>21 A. No, when you misquote the e-mail it's not a</p> <p>22 question of comfort.</p> <p>23 Q. Why did you want to convince Intel that they needed</p> <p>24 to stay away from Oracle NCs?</p> <p>25 MR. DOUGLAS: You still -- still same objection.</p>

21 (Pages 78 to 81)

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<p style="text-align: right;">Page 82</p> <p>1 You still leave the last part of the sentence off, and work</p> <p>2 more closely with Microsoft.</p> <p>3 A. We thought it would be advantageous if Intel chose</p> <p>4 to work with us and focus on things that we were doing.</p> <p>5 Q. (BY MR. HOSIE) You go on to say, I will have to</p> <p>6 spend some time reviewing the low end and how they screwed</p> <p>7 us.</p> <p>8 Do you see that, sir?</p> <p>9 A. Uh-huh.</p> <p>10 Q. By the low end you mean the very thin, simple</p> <p>11 network computer client?</p> <p>12 A. No.</p> <p>13 Q. What do you mean?</p> <p>14 A. I mean their arm strategy.</p> <p>15 Q. Explain, please.</p> <p>16 A. This is below a PC, like a hand-held PDA or pocket</p> <p>17 device, and they had recently gotten into chips for that.</p> <p>18 Q. And how had they screwed you there, sir?</p> <p>19 A. Well, we had done a product called Windows CE which</p> <p>20 runs on these machines -- it actually runs on some of those</p> <p>21 thin devices but mostly it runs on pocket-sized devices, and</p> <p>22 they had not given us good support in terms of getting</p> <p>23 Windows CE onto their processors. That was our opinion.</p> <p>24 Q. You say here, I will send separate mail to the</p> <p>25 groups who focus on low end Java and NCs to get their input.</p>	<p style="text-align: right;">Page 84</p> <p>1 Microsoft might do software in Sun byte codes?</p> <p>2 A. No, no, no.</p> <p>3 Q. Did you communicate that thought to them, sir?</p> <p>4 A. No. The point is that if there's customer demand</p> <p>5 for it, we might need to do it.</p> <p>6 Q. My question was different, Mr. Gates. Did you</p> <p>7 communicate this thought to anyone at Intel, you personally?</p> <p>8 MR. DOUGLAS: Objection to the form.</p> <p>9 A. You're mixing up issues. To the degree that those</p> <p>10 things, that byte codes catch on are popular, that's going to</p> <p>11 create a demand on us to support those.</p> <p>12 Q. (BY MR. HOSIE) My question, sir. Did you</p> <p>13 communicate to anyone at Intel, you personally, that if Intel</p> <p>14 persisted in helping NCs in Java, Microsoft might write</p> <p>15 software in Sun byte codes? Yes or no, sir?</p> <p>16 A. We certainly told them that if those byte codes</p> <p>17 became popular enough, then it would increase customer demand</p> <p>18 and we might have to respond to that.</p> <p>19 Q. That was not my question. I'll ask it one last</p> <p>20 time, sir.</p> <p>21 A. Okay.</p> <p>22 Q. If you don't want to answer it I'll move on.</p> <p>23 Did you ever communicate to Intel that if Intel</p> <p>24 persisted in helping NCs in Java, Microsoft might start</p> <p>25 writing Sun byte codes? Did you ever say that to them, sir?</p>
<p style="text-align: right;">Page 83</p> <p>1 Correct?</p> <p>2 A. To the different groups, yes.</p> <p>3 Q. Do you believe you actually sent the mail you</p> <p>4 reference here?</p> <p>5 A. I don't know.</p> <p>6 Q. At the bottom of the page, sir, if you could please</p> <p>7 read the first sentence in the carryover paragraph aloud into</p> <p>8 the record. It begins, I want them.</p> <p>9 A. (Witness reading document.) Okay. You're saying</p> <p>10 at the bottom?</p> <p>11 Q. Yeah.</p> <p>12 A. It says, I want them to understand that helping NCs</p> <p>13 and Java will push us to do Windows and other software Sun</p> <p>14 byte codes even if we don't rewrite them in Java.</p> <p>15 Q. And the them is Intel, is that not true, sir?</p> <p>16 A. Yes.</p> <p>17 Q. And you wanted Intel to understand that if Intel</p> <p>18 was helping NCs and Java, that might push Microsoft to do</p> <p>19 Windows and other software in Sun byte codes; correct?</p> <p>20 MR. DOUGLAS: Objection to the form.</p> <p>21 A. Yeah, that was a possibility, that if byte codes</p> <p>22 got popular enough we'd feel customer demand to do our</p> <p>23 software in that form.</p> <p>24 Q. (BY MR. HOSIE) And did you think that Intel</p> <p>25 understand that if Intel persisted in helping NCs and Java,</p>	<p style="text-align: right;">Page 85</p> <p>1 MR. DOUGLAS: Objection to the form of the</p> <p>2 question.</p> <p>3 A. It's not about rewriting software. You're</p> <p>4 confusing the issue. It's about the form we ship it in.</p> <p>5 It's not about rewriting stuff. It says very clearly, this</p> <p>6 isn't rewriting in Java.</p> <p>7 Q. (BY MR. HOSIE) You're right, ship it in Sun byte</p> <p>8 codes. Let me ask my question --</p> <p>9 A. Right.</p> <p>10 Q. -- again, sir.</p> <p>11 Did you ever communicate to Intel the notion that</p> <p>12 if Intel persisted in helping NCs in Java, that Microsoft</p> <p>13 might have to ship software in Sun byte codes? Did you say</p> <p>14 that to them?</p> <p>15 MR. DOUGLAS: Same objection.</p> <p>16 A. There's nothing in here about persisted. What it</p> <p>17 says in here is I want them to understand that helping NCs</p> <p>18 and Java, because they'll increase the demand for this, for</p> <p>19 those things, that demand will push us to do Windows and</p> <p>20 other software in Sun byte codes.</p> <p>21 Q. (BY MR. HOSIE) And did you communicate that</p> <p>22 thought to anyone at Intel?</p> <p>23 A. The general notion that whatever was being</p> <p>24 popularized, we would have to respond to, I'm sure Intel was</p> <p>25 aware of that.</p>

22 (Pages 82 to 85)

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<p style="text-align: right;">Page 86</p> <p>1 Q. Isn't this a threat, sir? Didn't you very directly 2 tell Intel more than once that, listen, Intel, if you don't 3 stop supporting Java and NC, we may well start writing our 4 software in Sun byte codes, which would be very bad for you, 5 Intel?</p> <p>6 A. No.</p> <p>7 MR. DOUGLAS: Objection to form and foundation.</p> <p>8 Q. (BY MR. HOSIE) You never made that threat, sir?</p> <p>9 MR. DOUGLAS: Hold on a minute. Objection. Form, 10 foundation, and now it's just argumentative.</p> <p>11 Q. (BY MR. HOSIE) You never made that threat?</p> <p>12 A. No.</p> <p>13 Q. You'd agree with me if you had said that, it would 14 be a threat; correct?</p> <p>15 MR. DOUGLAS: Objection. Argumentative.</p> <p>16 A. First of all, you keep saying write software in Sun 17 byte codes. It's about the form we ship it in.</p> <p>18 Q. (BY MR. HOSIE) Fine, the form you ship it in.</p> <p>19 A. Yeah, which is not -- we can ship it in different 20 forms.</p> <p>21 Q. Mr. Gates, you'd agree with me that had you said to 22 Andy Grove, listen, Andy, if you continue to support Java and 23 NC, we are going to retaliate and ship our product in Sun 24 byte codes, which would be very bad for you, Intel, that 25 would be a threat?</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. DOUGLAS: Objection. You're just arguing with 2 the witness. Let's go on to something else. Mr. Gates --</p> <p>3 A. I don't think you understand what it means for us 4 to ship the things in byte codes. You're acting like that's 5 some kind of big deal.</p> <p>6 Q. (BY MR. HOSIE) Well, let me ask you this. If you 7 had shipped Microsoft code in byte codes, Sun byte codes, 8 what would that have meant for the Intel microprocessor 9 business?</p> <p>10 MR. DOUGLAS: Objection to the form, foundation, 11 it's hypothetical.</p> <p>12 A. I don't think it would be a big deal.</p> <p>13 Q. (BY MR. HOSIE) You a couple times today said you 14 were very concerned about Intel's well-being, you thought 15 they were doing things inimical to their own best interests.</p> <p>16 A. I said that Intel sometimes is doing things we 17 thought were against Intel's own best interests.</p> <p>18 Q. Right. A form of altruism on your part?</p> <p>19 A. No, no. It happened that in some cases the things 20 that Intel was doing that we thought were against its own 21 interests also were things that we thought were not helpful 22 in terms of how they allocated their resources or to things 23 that we were interested in. And so just like Intel would 24 often share their opinions about what they saw in the 25 marketplace, what they thought would be fruitful activity, we</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. DOUGLAS: Objection to the form. Foundation, 2 the argumentative nature of the question and the pounding on 3 the table.</p> <p>4 Q. (BY MR. HOSIE) I apologize for my emphasis, sir, 5 but I feel this is an important question. Do you have it in 6 mind?</p> <p>7 A. Is this some hypothetical?</p> <p>8 Q. Yes.</p> <p>9 A. I think Andy would have been utterly confused by 10 that statement.</p> <p>11 Q. My question, would you consider that a threat, sir, 12 you personally?</p> <p>13 MR. DOUGLAS: Same objection.</p> <p>14 A. It's -- I don't really understand what you're 15 asking me. I think if anybody had said that from Microsoft, 16 Intel would have been confused by it.</p> <p>17 Q. (BY MR. HOSIE) Would you consider it a threat, 18 Mr. Gates?</p> <p>19 MR. DOUGLAS: Same objection. Asked and answered.</p> <p>20 Q. (BY MR. HOSIE) Your answer, please, sir?</p> <p>21 A. I'm not sure what I'd consider it, but it's not 22 something that I ever communicated.</p> <p>23 Q. And that's because it's a pretty blatant threat, is 24 it not?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 89</p> <p>1 did the same with them. And then both of us decided exactly 2 what we would do.</p> <p>3 Q. And so let me ask you, sir, my question again. If 4 Microsoft started shipping Microsoft code in Sun byte codes, 5 what would that have meant, if anything, to the 6 microprocessor business for Intel?</p> <p>7 MR. DOUGLAS: Same objection to the last --</p> <p>8 A. I don't think it would have been a big deal.</p> <p>9 Q. (BY MR. HOSIE) You don't think it would have led 10 to the potential commoditization of the Intel microprocessor?</p> <p>11 MR. DOUGLAS: Same objection.</p> <p>12 A. The microprocessor business has always been a 13 competitive business.</p> <p>14 (Deposition Exhibit No. 17 was marked 15 for identification.)</p> <p>16 Q. (BY MR. HOSIE) Let me show you our next in order, 17 sir.</p> <p>18 MR. DOUGLAS: By the way, you went from 14 to 16.</p> <p>19 MR. HOSIE: Yeah, I'm holding some of them back to 20 add a sense of drama.</p> <p>21 THE WITNESS: 15, huh? I'm waiting for 15.</p> <p>22 MR. DOUGLAS: 15 may have been one that somebody 23 discussed with you before.</p> <p>24 MR. HOSIE: Exactly. 15 may be one of the nine. 25 We'll never know and it's bothered me for months, Chuck.</p>

23 (Pages 86 to 89)

<p>Page 90</p> <p>1 Q. (BY MR. HOSIE) Sir, I've marked another e-mail as</p> <p>2 Exhibit 17, and actually I'm going to ask you about the</p> <p>3 second page which I think is the same as the first page with</p> <p>4 one additional e-mail attached.</p> <p>5 A. Yep.</p> <p>6 Q. Do you recall this e-mail, sir? And by e-mail I</p> <p>7 mean thread or string.</p> <p>8 A. Not specifically. It appears to be an e-mail from</p> <p>9 me.</p> <p>10 Q. If you could turn to the second page, please.</p> <p>11 A. Uh-huh.</p> <p>12 Q. I have added this because Mr. Roberts responds to</p> <p>13 your e-mail. Do you see that at the top?</p> <p>14 A. I do.</p> <p>15 Q. All right, sir. You have a general recollection, I</p> <p>16 suspect, of this exchange?</p> <p>17 A. No.</p> <p>18 Q. The middle of the page has an e-mail from you to</p> <p>19 Andy Grove, does it not?</p> <p>20 A. Yes.</p> <p>21 Q. And you're responding to a mail from Andy Grove to</p> <p>22 you; correct?</p> <p>23 A. That's right.</p> <p>24 Q. And what's the subject of Mr. Grove's mail, please?</p> <p>25 A. It's about some Windows CE related issues.</p>	<p>Page 92</p> <p>1 A. Yes.</p> <p>2 Q. And he goes on to say that the set top box running</p> <p>3 Navio is working great, whereas the box running WinCE is not</p> <p>4 very exciting; correct?</p> <p>5 MR. DOUGLAS: Objection to the form.</p> <p>6 A. Well, I think the words speak for themselves.</p> <p>7 Q. (BY MR. HOSIE) That's what they say?</p> <p>8 A. No. As usual, you've skipped a whole bunch, but.</p> <p>9 Q. In substance, sir?</p> <p>10 A. It's very readable. Do you want me to read it?</p> <p>11 Q. I want you to tell me what it means to you,</p> <p>12 Mr. Gates.</p> <p>13 A. It says he's got demos and one of them is not very</p> <p>14 exciting.</p> <p>15 Q. Which one is not very exciting?</p> <p>16 A. Real 2.0.</p> <p>17 Q. And that's the Windows product; right?</p> <p>18 A. Windows CE which is not Windows.</p> <p>19 Q. Right. Windows CE?</p> <p>20 A. Windows CE is not a PC operating system.</p> <p>21 Q. I understand that, sir, but this is a Microsoft</p> <p>22 product?</p> <p>23 A. For non-PC things, yes.</p> <p>24 Q. And so you respond to Mr. Grove's e-mail the very</p> <p>25 next day; correct?</p>
<p>Page 91</p> <p>1 Q. I earlier asked you about Navio and you said you</p> <p>2 didn't know what it was. Does reading Mr. Grove's e-mail</p> <p>3 refresh your recollection of what Navio was?</p> <p>4 A. He clearly references a thing called Navio, but I</p> <p>5 still don't know what it is.</p> <p>6 Q. What's Mr. Grove talking about here, sir?</p> <p>7 A. Agenda.</p> <p>8 Q. And he's talking about a set top computer running</p> <p>9 Navio and another running WinCE; correct?</p> <p>10 A. He's talking about the demonstrations he's going to</p> <p>11 give at agenda, and then he lists apparently some things</p> <p>12 about what he's going to show.</p> <p>13 Q. And one of the things he was going to show was a</p> <p>14 set top commuter running Navio; correct? Isn't that what he</p> <p>15 says?</p> <p>16 A. Well, those are the words there. We still didn't</p> <p>17 know what Navio was and I bet he didn't know either.</p> <p>18 Q. Was Navio a Microsoft product?</p> <p>19 A. I don't think so, but I don't know what it is. To</p> <p>20 be frank, every word in the dictionary I think we've used as</p> <p>21 a code name at one time or another, but I don't think -- I</p> <p>22 don't recollect that one.</p> <p>23 Q. Fair enough. And of course you know what Windows is?</p> <p>24 A. Yes.</p> <p>25 Q. And that is a Microsoft product?</p>	<p>Page 93</p> <p>1 A. Yeah, that's right.</p> <p>2 Q. And you first say, I'll see what I can do on a</p> <p>3 demonstration, and then you go on, do you not?</p> <p>4 A. That's right.</p> <p>5 Q. And you say, one thing I need some help on is to</p> <p>6 understand your tentative NC plans.</p> <p>7 Have I read that correctly?</p> <p>8 A. Uh-huh, you did.</p> <p>9 Q. And then you go and say, Will Swoope came and</p> <p>10 presented a plan that had a \$500 and \$700 NC which were</p> <p>11 cheaper than the NetPC; correct?</p> <p>12 A. Right.</p> <p>13 Q. Does this refresh your recollection that Will</p> <p>14 Swoope was indeed an Intel person?</p> <p>15 A. Gosh, I told you that I thought he was an Intel</p> <p>16 person before.</p> <p>17 Q. You did, but you were --</p> <p>18 A. And you said I was right.</p> <p>19 Q. But you weren't quite sure. And rather me having</p> <p>20 testify, I want to ask you, does this confirm your tentative</p> <p>21 belief of earlier today that in fact Will Swoope was an Intel</p> <p>22 person?</p> <p>23 A. I think it's increasingly likely that Will Swoope</p> <p>24 worked for Intel.</p> <p>25 Q. I suppose I'll take that, okay.</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 All right, what was a NetPC, please?</p> <p>2 A. I think we worked on a joint specification with</p> <p>3 Intel and others for a low cost PC that had all the</p> <p>4 advantages of a PC and yet had a lot of simplicity and was</p> <p>5 very inexpensive.</p> <p>6 Q. TCO or ZAW ring a bell in that context?</p> <p>7 A. Well, those are industry buzz words. TCO means</p> <p>8 total cost of ownership, ZAW means zero administration</p> <p>9 workstation.</p> <p>10 Q. And this was all mixed in in your notion to build a</p> <p>11 Windows PC type box?</p> <p>12 A. No, everybody talks about TCO and ZAW. That's not</p> <p>13 related specifically to Windows in any way. Everybody wants</p> <p>14 low TCO, low total cost of ownership, and zero administration</p> <p>15 workstations, and so everybody competes in order to deliver</p> <p>16 those desirable characteristics.</p> <p>17 Q. Why was it important to you to understand Intel's</p> <p>18 tentative NC plans?</p> <p>19 A. Whenever Intel did hardware plans it was of</p> <p>20 interest to us.</p> <p>21 Q. That's all?</p> <p>22 MR. DOUGLAS: Objection to the form.</p> <p>23 A. Knowing Intel's plans was often interesting to us.</p> <p>24 It would affect our plans.</p> <p>25 Q. (BY MR. HOSIE) In the second paragraph you go on</p>	<p style="text-align: right;">Page 96</p> <p>1 software and hardware. And for Intel, getting to the right</p> <p>2 applications that need high performance processors is very</p> <p>3 key to their business model, because they basically in one</p> <p>4 period of years have to say to you, oh, you know, you're one</p> <p>5 megahertz machine is dumb, get a 10 megahertz machine. But</p> <p>6 then three years later they have to say, oh, you have that 10</p> <p>7 megahertz machine? No, you need the 100 megahertz machine.</p> <p>8 And now it's gigahertz; one gigahertz, two gigahertz, three</p> <p>9 gigahertz. So this is always an interesting question for</p> <p>10 software developers. Do they aim for the cheapest PC and</p> <p>11 therefore not do things that would require a high performance</p> <p>12 processor or do they do very advanced things?</p> <p>13 And so getting an understanding of how quickly is</p> <p>14 Intel raising the clock rate, how quickly are they lowering</p> <p>15 the price on their high performance processors, understanding</p> <p>16 what their message is going to be, we were always interested</p> <p>17 in that, because we likewise are meeting with software</p> <p>18 developers saying, hey, we think you should do applications</p> <p>19 that take advantage of the latest software. So it makes</p> <p>20 sense to me, yes.</p> <p>21 Q. Did you like Intel's drive toward exposing APIs on</p> <p>22 cheap clients?</p> <p>23 MR. DOUGLAS: Objection to the form. Vague.</p> <p>24 Q. (BY MR. HOSIE) You personally, Mr. Gates?</p> <p>25 A. It's part of Intel's strategy today just like it's</p>
<p style="text-align: right;">Page 95</p> <p>1 to say, our whole plan had been to tell people to write</p> <p>2 applications assuming the latest Intel processor.</p> <p>3 Do you see that?</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then you go on to say at the end of the</p> <p>6 paragraph, and I quote again, however --</p> <p>7 A. I don't know why you're skipping around.</p> <p>8 Q. That's because I have a question in mind that I'm</p> <p>9 building toward, how's that? Can I ask my question, sir?</p> <p>10 A. Why do you read discontinuous pieces of the e-mail?</p> <p>11 Q. Because I have three hours of your time, Mr. Gates,</p> <p>12 and if I didn't do that I would get nowhere near done.</p> <p>13 A. Okay. Well, I've read the whole e-mail.</p> <p>14 Q. Good. I asked you to, did I not, sir?</p> <p>15 A. And I obeyed.</p> <p>16 MR. DOUGLAS: Is there a question?</p> <p>17 MR. HOSIE: There is, we're building to a question.</p> <p>18 I was responding to Mr. Gates and his criticism of my</p> <p>19 questioning style, if you will.</p> <p>20 Q. (BY MR. HOSIE) The last sentence of that e-mail,</p> <p>21 however, Intel seems now to think exposing APIs on cheap</p> <p>22 clients and directing development there is a good idea.</p> <p>23 What are you saying there, Mr. Gates?</p> <p>24 A. There's always been this question of, that agree to</p> <p>25 which software developers will assume new features in</p>	<p style="text-align: right;">Page 97</p> <p>1 part of our strategy to support what's called Windows</p> <p>2 terminal server. If they make that a main thrust, it works</p> <p>3 against their interests.</p> <p>4 Q. And yours?</p> <p>5 A. Actually, yeah, there is somewhat of a synergy in</p> <p>6 that to the degree you buy a new processor, you typically buy</p> <p>7 more memory and it makes you more open minded to buy the</p> <p>8 latest version of either of the Windows or the office</p> <p>9 software. And so throughout the history of the PC as we've</p> <p>10 gotten more powerful machines, we've developed Windows to</p> <p>11 take advantage of that, people have developed applications to</p> <p>12 take advantage of that. And it's this virtual cycle that has</p> <p>13 led to lower cost PCs, more powerful software and, you know,</p> <p>14 the whole personal computer phenomena.</p> <p>15 Q. Sir, aren't you basically saying here, listen,</p> <p>16 Intel, you're exposing APIs on cheap clients, this is exactly</p> <p>17 the platform threat that you were concerned about?</p> <p>18 MR. DOUGLAS: Objection to the form.</p> <p>19 A. No. Both Intel and Microsoft have low end clients</p> <p>20 as part of their strategy.</p> <p>21 Q. (BY MR. HOSIE) Your last paragraph you make the</p> <p>22 comment, one of the interesting things about NCs/Java is the</p> <p>23 byte codes.</p> <p>24 Do you see that, sir?</p> <p>25 A. Uh-huh.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q. Why are you talking about NCs/Java here?</p> <p>2 A. There are some NCs that were not the pure NCs that</p> <p>3 had some byte code capabilities, very limited in the sense</p> <p>4 that things like high end multimedia typically wouldn't work</p> <p>5 on those things. But some of them had local byte code</p> <p>6 execution environment.</p> <p>7 Q. Java runtime?</p> <p>8 A. Yeah, Java byte code execution.</p> <p>9 Q. And you were concerned that if those NCs became</p> <p>10 popular, that would be a very serious platform threat to</p> <p>11 Microsoft indeed?</p> <p>12 MR. DOUGLAS: Objection to form and foundation.</p> <p>13 A. No, anything that becomes popular is competition,</p> <p>14 so NCs, the ones that Microsoft wasn't involved in, were</p> <p>15 competition, and things where you built an operating system</p> <p>16 other than Windows, that was competition.</p> <p>17 Q. (BY MR. HOSIE) Okay, my question, Mr. Gates, if</p> <p>18 NCs using Java runtime became very popular, that would be a</p> <p>19 very bad thing for Microsoft? True or false?</p> <p>20 A. The ones from Oracle and Sun were competitive to</p> <p>21 us. We actually had some as part of our strategy that were</p> <p>22 purely thin and didn't have the JBM and some that did have</p> <p>23 that capability, so if people bought our flavors of those</p> <p>24 things, that wouldn't affect us at all. To the degree they</p> <p>25 chose the competitive products, yes, that's something that we</p>	<p style="text-align: right;">Page 100</p> <p>1 A. It would help Intel with their titanium processor</p> <p>2 that ran a different instruction set. It would also be kind</p> <p>3 of neutral relative to AMD. If other people had really good</p> <p>4 price performance it might be helpful to them.</p> <p>5 Q. (BY MR. HOSIE) You go on to say, we are assuming</p> <p>6 that someone at Intel has decided that it is okay to endorse</p> <p>7 byte codes.</p> <p>8 You're being somewhat tongue in cheek, are you not,</p> <p>9 sir?</p> <p>10 A. No. No, in fact, Intel was very involved in --</p> <p>11 parts of Intel in things where they would take Java and</p> <p>12 compile it to byte codes.</p> <p>13 Q. You go on to say, we didn't think byte codes made</p> <p>14 sense but since the call from Gelsinger, we've been looking</p> <p>15 at this a whole new way. Have I read that correctly?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Do you recall a conversation that you had with Pat</p> <p>18 Gelsinger about byte codes at Intel?</p> <p>19 A. No.</p> <p>20 Q. And then your last -- I'm going to skip a sentence,</p> <p>21 okay?</p> <p>22 A. Okay.</p> <p>23 Q. The last sentence, one breakthrough involves the</p> <p>24 ability to ship software in C, Visual Basic - all Microsoft</p> <p>25 software and byte codes very easily in the next six months.</p>
<p style="text-align: right;">Page 99</p> <p>1 were competing for that business, and it's all a matter of</p> <p>2 degree of volume. But we wanted to offer a product that was</p> <p>3 better.</p> <p>4 Q. And you wanted Intel to stop its work in support of</p> <p>5 NCs with a Java runtime; correct?</p> <p>6 MR. DOUGLAS: Objection to the form. Vague and</p> <p>7 ambiguous.</p> <p>8 A. No. In fact, as we did the license with Sun for</p> <p>9 various Java things, Intel saw us working in the Java area,</p> <p>10 we had a particular view about what we were doing with Java</p> <p>11 and what we weren't doing that we shared with Intel. And</p> <p>12 sometimes, you know, they thought that was interesting and</p> <p>13 sometimes they didn't.</p> <p>14 Q. (BY MR. HOSIE) You go on here to say, the byte</p> <p>15 codes controlled by Sun will eliminate the compatibility</p> <p>16 problems of running software on different microprocessors.</p> <p>17 What are you referring to here, sir?</p> <p>18 A. Just processor independence. Byte codes are</p> <p>19 different than native code. You can always abstract software</p> <p>20 up one level away from the processor. That's a technique</p> <p>21 that's been around for a long time.</p> <p>22 Q. Would eliminating the compatibility of problems of</p> <p>23 running software on different microprocessors as you viewed</p> <p>24 it be a good or a bad thing for Intel?</p> <p>25 MR. DOUGLAS: Objection to the form. Ambiguous</p>	<p style="text-align: right;">Page 101</p> <p>1 What are you saying there, sir?</p> <p>2 A. I'm saying that we've used byte codes throughout</p> <p>3 the history of Microsoft. When we wanted to squeeze software</p> <p>4 down into different environments we've used byte codes and so</p> <p>5 we've always had various tools that relate to byte codes.</p> <p>6 Q. Isn't this a direct threat, sir?</p> <p>7 A. No.</p> <p>8 Q. Could you please read aloud into the record</p> <p>9 Mr. Roberts' response to your mail?</p> <p>10 A. You don't want to read it?</p> <p>11 Q. I'd like you to read it, Mr. Gates.</p> <p>12 A. Okay.</p> <p>13 Q. Unless you really don't want to, in which case I</p> <p>14 will as a courtesy.</p> <p>15 A. That's okay. What was his job?</p> <p>16 Q. Do you know Mr. Roberts?</p> <p>17 A. I don't know what he did.</p> <p>18 Q. He worked at Microsoft, did he not, sir?</p> <p>19 A. He did, but what -- in what group?</p> <p>20 Q. He sent you this e-mail, did he not, sir?</p> <p>21 A. It appears he did, but I'm curious if you have any</p> <p>22 background on what role he had in the company.</p> <p>23 Q. And if you could please read this into the record.</p> <p>24 A. Okay.</p> <p>25 Q. Thank you, Mr. Gates.</p>

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<p>Page 102</p> <p>1 MR. DOUGLAS: And I object then to all of that</p> <p>2 discussion which you didn't want to give the witness what he</p> <p>3 was asking for background and context for the questions</p> <p>4 you're going to ask him. Mr. Gates, the question is, read</p> <p>5 it, please read it for Mr. Hosie.</p> <p>6 A. Okay. This is a great piece of e-mail. It is not</p> <p>7 a rant, but a very logical dissection of the issue with the</p> <p>8 threat of thermal nuclear war very well and politely</p> <p>9 delivered.</p> <p>10 Q. (BY MR. HOSIE) Mr. Gates, you see no threat in</p> <p>11 your e-mail at all, do you?</p> <p>12 A. Absolutely none.</p> <p>13 Q. And you think Mr. Roberts is just out to lunch?</p> <p>14 MR. DOUGLAS: Objection to the form.</p> <p>15 Q. (BY MR. HOSIE) Let me rephrase it in a less</p> <p>16 colloquial fashion. You think Mr. Roberts just profoundly</p> <p>17 misunderstood the message you were sending to Mr. Grove?</p> <p>18 A. You better ask Mr. Roberts what he meant. It's a</p> <p>19 non sequitur when attached to this piece of e-mail.</p> <p>20 (Deposition Exhibit No. 18 was marked</p> <p>21 for identification.)</p> <p>22 Q. (BY MR. HOSIE) Let me show you what I've marked as</p> <p>23 No. 18, Mr. Gates. Let's go off the record and give you a</p> <p>24 chance to read this. Off the record, please.</p> <p>25 VIDEO OPERATOR: The time is 3:35 p.m. We'll be</p>	<p>Page 104</p> <p>1 Q. All right, sir. And this is a presentation that</p> <p>2 you handled personally for Microsoft?</p> <p>3 A. Yeah, I made a presentation in person, personally.</p> <p>4 Q. And you understand that Mr. Brumer has forwarded to</p> <p>5 you for your review Mr. Brumer's summary of that</p> <p>6 presentation?</p> <p>7 A. Well, I'm seeing those words that he sent to me</p> <p>8 seven years ago.</p> <p>9 Q. And in his first paragraph Mr. Brumer says that the</p> <p>10 meeting was very cordial -- I'm in the middle of the first</p> <p>11 paragraph, Mr. Gates. The meeting was very cordial, both</p> <p>12 sides keeping most emotions in check. Is that your</p> <p>13 recollection of the meeting, sir?</p> <p>14 A. I don't recall.</p> <p>15 Q. And then he says, the only real flareup was at the</p> <p>16 end when Bill -- you would be that Bill, sir?</p> <p>17 A. Uh-huh.</p> <p>18 Q. When Bill clearly articulated our -- that would be</p> <p>19 Microsoft?</p> <p>20 A. Right.</p> <p>21 Q. Concerns about their -- that would be Intel?</p> <p>22 A. Yes.</p> <p>23 Q. Work on STB. That would be set top box?</p> <p>24 A. That's right, completely non-related to PCs.</p> <p>25 Q. I understand. And NC, that would be network</p>
<p>Page 103</p> <p>1 taking a break.</p> <p>2 (Discussion off the record.)</p> <p>3 (Recess taken.)</p> <p>4 VIDEO OPERATOR: The time is 3:41 p.m., we're now</p> <p>5 back on the record.</p> <p>6 Q. (BY MR. HOSIE) Mr. Gates, I wonder if you might</p> <p>7 take a moment on the record and review what I've marked as</p> <p>8 Exhibit 18. Specifically I'm going to ask you about</p> <p>9 Mr. Brumer's summarization of the meeting you had at Intel</p> <p>10 and ask you whether you agree or disagree with his</p> <p>11 summarization.</p> <p>12 A. (Witness reading document.) Well, his summary's a</p> <p>13 very long summary talking about things that happened seven</p> <p>14 years ago now.</p> <p>15 Q. Would you like me to --</p> <p>16 A. And the notion that I could agree or disagree with</p> <p>17 this, that's asking quite a bit. I haven't read it yet, I</p> <p>18 have to admit.</p> <p>19 Q. Let me ask this, sir. Do you recall making a</p> <p>20 lengthy presentation to Intel's strategic long range planning</p> <p>21 group in 1997?</p> <p>22 A. Yeah, I know I made a presentation. I don't know</p> <p>23 the time but around that time they got a group of executives</p> <p>24 together. I don't remember the name, but apparently that was</p> <p>25 their name for the group.</p>	<p>Page 105</p> <p>1 computer?</p> <p>2 A. Right.</p> <p>3 Q. All happening at the same time to heat things up at</p> <p>4 MS and make us wonder whether we should be pulling away from</p> <p>5 work with Intel.</p> <p>6 Sir, do you remember communicating to this group of</p> <p>7 senior Intel executives that their, Intel's, work on STB and</p> <p>8 NC was making Microsoft wonder whether Microsoft should be</p> <p>9 pulling away from work with Intel?</p> <p>10 MR. DOUGLAS: Objection to the form and foundation.</p> <p>11 A. I know in the case of set top box work there was a</p> <p>12 real question of whether there should be any work between</p> <p>13 Intel and Microsoft or not because we had different</p> <p>14 strategies on set top boxes, and clearly that's talking about</p> <p>15 the confusion around set top boxes and network computers and</p> <p>16 do we have any common goals at all in those two spaces.</p> <p>17 Q. (BY MR. HOSIE) And NC, sir? Do you recall saying</p> <p>18 if they continued the work on NC, Microsoft would have to</p> <p>19 consider pulling away from their work with Intel?</p> <p>20 A. No. The question is whether there's joint work</p> <p>21 together related to network computers or is there joint work</p> <p>22 together related to set top boxes. The set top box thing is</p> <p>23 interesting because we really tried to communicate with Intel</p> <p>24 and we ended up going on different strategies, and so some</p> <p>25 work we had started with Intel no longer made sense. In</p>

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<p style="text-align: right;">Page 106</p> <p>1 fact, I don't know if it's in this time frame but about this</p> <p>2 time frame we actually did pull back from some set top work</p> <p>3 we were doing with Intel and actually do that work with</p> <p>4 Motorola.</p> <p>5 Q. If you would turn to the second page, please.</p> <p>6 A. Okay.</p> <p>7 Q. There is a series of paragraphs, three specifically</p> <p>8 under the Java heading. Do you see that?</p> <p>9 A. I'm just reading it.</p> <p>10 Q. Yeah, if you could, please.</p> <p>11 A. (Witness reading document.) Okay.</p> <p>12 Q. Mr. Brumer says that you gave, Microsoft, three</p> <p>13 part Java positioning. Do you recall giving a three part</p> <p>14 Java positioning?</p> <p>15 A. No. It shows the whole thing of what we were doing</p> <p>16 on Java and what we weren't was fairly complex, but I don't</p> <p>17 remember what the three parts are.</p> <p>18 Q. That was my next question. Mr. Brumer says that</p> <p>19 clear direction that Microsoft was not okay with the Java as</p> <p>20 a platform for all the standard reasons.</p> <p>21 Did you say at this meeting that Microsoft was not</p> <p>22 okay with Java as a platform?</p> <p>23 A. No, I think I -- what I did is I gave our three</p> <p>24 part Java positioning.</p> <p>25 Q. Okay, so you're saying you did not say that</p>	<p style="text-align: right;">Page 108</p> <p>1 Q. Do you recall Gelsinger telling you at the date of</p> <p>2 this meeting that Intel now thought it was in sync with</p> <p>3 Microsoft on Java?</p> <p>4 A. No.</p> <p>5 Q. And do you remember remaining concerned that Intel</p> <p>6 was still supporting Java multimedia libraries?</p> <p>7 A. It doesn't say that. It says Bill still sees them</p> <p>8 supporting.</p> <p>9 Q. Yeah, and my question was did that concern you,</p> <p>10 that support for Java multimedia libraries?</p> <p>11 A. I don't recall that. What Marshall says in</p> <p>12 recounting the meeting is it said Bill still sees them</p> <p>13 supporting their Java multimedia libraries.</p> <p>14 Q. And you did see them supporting their Java</p> <p>15 multimedia libraries?</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you think he got it wrong?</p> <p>18 MR. DOUGLAS: Objection to the form.</p> <p>19 A. I don't know.</p> <p>20 Q. (BY MR. HOSIE) Let me rephrase. Do you have any</p> <p>21 reason to believe that Mr. Brumer mischaracterized your views</p> <p>22 at the time, sir?</p> <p>23 A. No.</p> <p>24 Q. Can you recall why you thought that Intel was still</p> <p>25 supporting its Java multimedia libraries?</p>
<p style="text-align: right;">Page 107</p> <p>1 Microsoft was not okay with Java as a platform?</p> <p>2 A. Well, Java's a platform.</p> <p>3 Q. Microsoft okay with Java as a platform is what I</p> <p>4 said, sir.</p> <p>5 A. I don't remember any specific things in the</p> <p>6 meeting. We had competitors using Java in a way that, you</p> <p>7 know, was out in the marketplace competing with us, and that</p> <p>8 was a topic of discussion.</p> <p>9 Q. And he goes on to say, for all the standard</p> <p>10 reasons. What are the standard reasons why Microsoft was not</p> <p>11 okay with Java as a platform, Mr. Gates?</p> <p>12 A. Well --</p> <p>13 MR. DOUGLAS: Objection to form and foundation.</p> <p>14 A. We had competitors that were offering non-Windows</p> <p>15 solutions, some of which relied on Java, including parts of</p> <p>16 Java that we didn't think would deliver on the things that</p> <p>17 they said that Java would do. And so, you know, it's just</p> <p>18 classic competition in the software space.</p> <p>19 Q. (BY MR. HOSIE) And Marshall Brumer goes on to say,</p> <p>20 Gelsinger said that he thinks we are now in sync on Java,</p> <p>21 although Bill still sees them supporting their Java MM</p> <p>22 L-i-b-s. Do you see that, sir?</p> <p>23 A. Uh-huh.</p> <p>24 Q. That would be Java multimedia libraries?</p> <p>25 A. I think so.</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. DOUGLAS: Objection to form and foundation.</p> <p>2 A. I don't know why. Intel gets to decide exactly</p> <p>3 what they do and why they want to do it.</p> <p>4 Q. (BY MR. HOSIE) It's not a situation, your</p> <p>5 relationship, Microsoft's relationship with Intel, where you</p> <p>6 get to tell Intel what to do?</p> <p>7 MR. DOUGLAS: Objection to form. Overbroad.</p> <p>8 A. I'm sure some people would tell them what to do but</p> <p>9 that wasn't what they would do. You know, there's a high</p> <p>10 level of --</p> <p>11 Q. (BY MR. HOSIE) Independence?</p> <p>12 A. -- independence between these companies.</p> <p>13 Q. As there should be.</p> <p>14 (Deposition Exhibit No. 19 was marked</p> <p>15 for identification.)</p> <p>16 Q. (BY MR. HOSIE) Sir, let me show you what's been</p> <p>17 marked as Exhibit 19. I'm going to be principally asking you</p> <p>18 about the e-mail you wrote on October 14, 1997, it's at the</p> <p>19 bottom of the page. You wrote it to a whole series of folks</p> <p>20 at Microsoft. Why don't you take a minute and read that,</p> <p>21 please.</p> <p>22 A. Okay.</p> <p>23 Q. This is an e-mail you wrote?</p> <p>24 A. That's one of them.</p> <p>25 Q. These are your words?</p>

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28 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 A. No. The first mail's not mine, the second one is.</p> <p>2 Q. And that's the one I asked you to read, is it not,</p> <p>3 sir?</p> <p>4 A. Yeah, it appears to be an e-mail from me.</p> <p>5 Q. And the subject of the e-mail, please?</p> <p>6 A. Re, Intel visit, quick recap. But that's not my</p> <p>7 subject. Do you understand how that works?</p> <p>8 Q. I do, thank you, Mr. Gates. You're joining a</p> <p>9 thread with a preexisting subject line and you have a change</p> <p>10 in subject?</p> <p>11 A. Right, I have no subject.</p> <p>12 Q. You are just joining a thread?</p> <p>13 A. Exactly.</p> <p>14 Q. I do understand that. You say two critical points.</p> <p>15 One, we are crisis mode with Intel.</p> <p>16 Was that your view then, sir?</p> <p>17 A. I don't recall. This talks about Intel's low end</p> <p>18 work, and apparently when I wrote this I felt relative to low</p> <p>19 end stuff there was a crisis.</p> <p>20 Q. With Intel?</p> <p>21 A. Yes.</p> <p>22 Q. You go on to say, if they -- the they would be</p> <p>23 Intel?</p> <p>24 A. Yes.</p> <p>25 Q. If Intel goes ahead with their NC plans, we</p>	<p style="text-align: right;">Page 112</p> <p>1 Intel based on Intel's NC plans?</p> <p>2 A. Well, this is sent to the people who are working on</p> <p>3 a specific set of products.</p> <p>4 Q. And you told these folks to tell Intel that</p> <p>5 Microsoft was reevaluating all of its work with Intel based</p> <p>6 on Intel's NC plans; correct?</p> <p>7 A. Yeah, I'm not sure what scope of work I'm talking</p> <p>8 about there, but that is what I say.</p> <p>9 Q. That's a threat, is it not, sir?</p> <p>10 A. No.</p> <p>11 MR. DOUGLAS: Objection to the form.</p> <p>12 Q. (BY MR. HOSIE) Turn to the next page, please. The</p> <p>13 last paragraph of your e-mail, and I'll read it aloud. My</p> <p>14 view is that if Intel thinks people are that cheap then we</p> <p>15 should make sure we support byte codes with all our software</p> <p>16 so that any processor can be used.</p> <p>17 That's another threat, is it not, Mr. Gates?</p> <p>18 A. Absolutely not.</p> <p>19 MR. DOUGLAS: Same objection.</p> <p>20 A. You're very much misconstruing what's going on in</p> <p>21 this conversation. When you get down to very low cost chips,</p> <p>22 Intel's not as competitive. Where they're very competitive</p> <p>23 is in high performance chips. If all you want is low</p> <p>24 performance then it becomes more important for us to support</p> <p>25 other microprocessors. As you move up to the higher end then</p>
<p style="text-align: right;">Page 111</p> <p>1 certainly won't be working with them on Windows CE and most</p> <p>2 other things as well.</p> <p>3 That's what you said, Mr. Gates, is it not?</p> <p>4 A. That's what the sentence says, yes.</p> <p>5 Q. Was that your view at the time, sir?</p> <p>6 A. I don't recall. This is apparently related to low</p> <p>7 end things. I felt like there was a course of action would</p> <p>8 have us working separately.</p> <p>9 Q. And do you have any reason to believe that this</p> <p>10 e-mail which you wrote yourself somehow inaccurately captured</p> <p>11 your thoughts as of October 14, 1997?</p> <p>12 MR. DOUGLAS: Objection to the form.</p> <p>13 A. It appears to be an e-mail I wrote.</p> <p>14 Q. (BY MR. HOSIE) And in this e-mail you wrote, you</p> <p>15 go on to say, 'until I say so, that would be you, Bill Gates,</p> <p>16 the I; correct?</p> <p>17 A. Where are you reading?</p> <p>18 Q. Paragraph 1 under your two critical points?</p> <p>19 A. Oh, yeah, sure.</p> <p>20 Q. Until I say so, every conversation with Intel</p> <p>21 should say that you have been told that we are reevaluating</p> <p>22 all of our work with them based on their NC plans and what</p> <p>23 happened on the set top box issue.</p> <p>24 Did you tell people at Microsoft, pass on to</p> <p>25 Intel that Microsoft was reevaluating all of its work with</p>	<p style="text-align: right;">Page 113</p> <p>1 really taking full advantage of the work Intel does, that's</p> <p>2 important. But where processor independence has always been</p> <p>3 important in this set top box area. And there's a chain here</p> <p>4 about what's going on in the set top box thing where we're</p> <p>5 reacting to, as I say, what happened on the set top box</p> <p>6 issue. And in that area the idea of allowing cheaper</p> <p>7 processors is something that customers were demanding.</p> <p>8 Q. (BY MR. HOSIE) And not a good thing for Intel?</p> <p>9 A. The low end stuff has never been a big deal for</p> <p>10 Intel. It never -- that's not a significant part of what</p> <p>11 goes on for them.</p> <p>12 Q. So you're saying it's not devastating, but still</p> <p>13 directionally it would not be a good thing for Intel? You</p> <p>14 would agree with that?</p> <p>15 MR. DOUGLAS: Objection to the form.</p> <p>16 A. I'm saying that we would respond to the demand</p> <p>17 customers had to use different cheap processors.</p> <p>18 Q. (BY MR. HOSIE) Then you see Mr. Roberts is on the</p> <p>19 thread, joins on October 14, 1997?</p> <p>20 A. Well, are you going backwards in time?</p> <p>21 Q. I am.</p> <p>22 A. Okay, that's confusing, but go ahead.</p> <p>23 Q. And he says, we have entered into a cold war with</p> <p>24 Intel, does he?</p> <p>25 A. Yeah. Once again, I'm interested. What area was</p>

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<p>Page 114</p> <p>1 he working in at Microsoft?</p> <p>2 Q. Well, let's explore that, sir. Look at the people</p> <p>3 he's sending his mail to. He sends it to Adam Taylor;</p> <p>4 correct?</p> <p>5 A. And what area did he work in?</p> <p>6 Q. Do you know Adam Taylor?</p> <p>7 A. No.</p> <p>8 Q. He sent it to Bill Gates. That would be you?</p> <p>9 A. Yes.</p> <p>10 Q. And he sent it to Paul Maritz?</p> <p>11 A. Yeah, but that's high up the chain. What area did</p> <p>12 he work? He's not an executive or anything.</p> <p>13 Q. He's not an executive.</p> <p>14 A. No.</p> <p>15 Q. Well, he's sending an e-mail to senior executives</p> <p>16 here, is he not?</p> <p>17 A. Like everyone does.</p> <p>18 Q. Let me ask you this, Mr. Gates. Would you disagree</p> <p>19 with Mr. Roberts' characterization that Microsoft had entered</p> <p>20 into a cold war with Intel?</p> <p>21 A. Yes. Either that or you'd have to call our entire</p> <p>22 history of our relationship with Intel some hyperbole like</p> <p>23 that. The point of complete agreement was never reached.</p> <p>24 Q. The next sentence intrigues me, sir.</p> <p>25 A. Where are we now?</p>	<p>Page 116</p> <p>1 MR. DOUGLAS: Objection. Form and foundation.</p> <p>2 A. No.</p> <p>3 Q. (BY MR. HOSIE) Isn't the threat you communicated</p> <p>4 earlier that if Intel persisted in supporting NC and Java,</p> <p>5 you would ship Microsoft code in byte codes?</p> <p>6 MR. DOUGLAS: Same objection.</p> <p>7 A. No. That wouldn't have been a big deal to Intel.</p> <p>8 (Deposition Exhibit No. 20 was marked</p> <p>9 for identification.)</p> <p>10 Q. (BY MR. HOSIE) I'll show you what's been marked as</p> <p>11 Exhibit 20, Mr. Gates.</p> <p>12 MR. HOSIE: How's my time?</p> <p>13 VIDEO OPERATOR: 2.5.</p> <p>14 Q. (BY MR. HOSIE) For the record, Exhibit 20 is an</p> <p>15 e-mail from Marshall Brumer to Jim Allchin, Bill Gates and</p> <p>16 others dated October 5, 1997.</p> <p>17 Sir, my questions will principally relate to an</p> <p>18 e-mail you wrote which is on the second page in the middle of</p> <p>19 the thread. But please read the whole thing if you'd like.</p> <p>20 A. (Witness reading document.) Okay.</p> <p>21 Q. Sir, you wrote this e-mail Saturday, October 4, did</p> <p>22 you not?</p> <p>23 A. It appears I did, yes.</p> <p>24 Q. And this is another case where you just incorporate</p> <p>25 some preexisting subject line?</p>
<p>Page 115</p> <p>1 Q. Still back in the Jonathan Roberts cold war with</p> <p>2 Intel mail.</p> <p>3 A. His second sentence?</p> <p>4 Q. Yeah. Could you read that aloud into the record,</p> <p>5 please?</p> <p>6 A. I think you should get Jonathan, if you want</p> <p>7 somebody to read Jonathan's mail the best way possible.</p> <p>8 Q. Well, this is a mail he sent to you, correct,</p> <p>9 amongst others?</p> <p>10 A. I'm copied on mail from him. We're still not sure</p> <p>11 what group he's in.</p> <p>12 Q. Well, Mr. Gates, if you're not comfortable, I'm</p> <p>13 happy to read it. Let me do so.</p> <p>14 A. No, I'm comfortable.</p> <p>15 Q. You sure?</p> <p>16 A. Either way.</p> <p>17 Q. If you could read it, please.</p> <p>18 A. I'm good at reading.</p> <p>19 Q. I gather you are, sir.</p> <p>20 A. It's what you brought me here for.</p> <p>21 The only way to maintain our current largely</p> <p>22 favorable relationship is to clearly outline mutually assured</p> <p>23 destruction.</p> <p>24 Q. Do you have any idea that Mr. Roberts was referring</p> <p>25 to here, sir?</p>	<p>Page 117</p> <p>1 A. Yeah, I'm replying to a mail that Craig Mundie</p> <p>2 wrote.</p> <p>3 Q. Okay. Your middle paragraph you say, I'm going to</p> <p>4 speak to the Intel exec staff at an offsite they are having</p> <p>5 on October 22nd. That's the meeting we were just discussing?</p> <p>6 A. Yeah, I think so.</p> <p>7 Q. And you say, this will be when I explain their</p> <p>8 future is tied to, A, fighting byte codes, B, working with us</p> <p>9 on natural interface and new low end things, and another B,</p> <p>10 working with us on Merced, versus going off to do Oracle NCs</p> <p>11 and STBs.</p> <p>12 Is that the message you communicated at your</p> <p>13 presentation?</p> <p>14 A. No.</p> <p>15 Q. Your e-mail inaccurately summarizes what you in</p> <p>16 fact did at the presentation, sir?</p> <p>17 A. Well, I think you'd want to look at the meeting</p> <p>18 notes from that meeting if that's what you're interested in.</p> <p>19 Q. Did you ask Intel at this meeting to go away from</p> <p>20 Oracle NCs and STBs?</p> <p>21 A. We explained what our strategy for competing with</p> <p>22 Oracle NCs were and what we were doing, and we probably made</p> <p>23 some requests for ways that we could work together on the</p> <p>24 Microsoft piece.</p> <p>25 Q. And you were angry with Intel about its behavior at</p>

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30 (Pages 114 to 117)

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1 this juncture, were you not, sir?
2 MR. DOUGLAS: Objection to the form.
3 A. From time to time people characterized me as angry,
4 and throughout the history of the relationship with Intel I
5 was certainly one of the people who felt that Intel wasn't
6 coordinating its activities as well as it should. And you
7 know, whether you tie that to an emotional phrase or not, I
8 know somebody who saw how hard core I was in the way I ran
9 Microsoft and I'm talking about the things we should do,
10 always made terms like I was being emotional about it. I
11 wouldn't use that term but that's the way people responded to
12 my intensity sometimes.
13 Q. (BY MR. HOSIE) You said people characterize you.
14 Sir, here you're describing your own state of mind, are you
15 not?
16 MR. DOUGLAS: Objection. Form and argumentative.
17 A. There's a piece that I am -- yeah, okay, what
18 Craig's talking about here is the set top box work, and that,
19 there was so much miscommunication. That one I state very
20 explicitly, related to set top boxes, which has nothing to do
21 with multimedia, video, not a thing to do with any of those
22 things. I'm saying that I'm angry about the
23 miscommunication.
24 (Deposition Exhibit No. 21 was marked
25 for identification.)

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1 Q. (BY MR. HOSIE) At some point, sir, did you learn
2 that Intel had decided to walk away from the Oracle NC
3 project?
4 A. I'm not sure.
5 Q. Let me show you what's been marked as Exhibit 21.
6 A. Okay, what's the question?
7 Q. Well, for the record, this Exhibit 21 is an e-mail
8 thread that has in it an e-mail on the first page from Paul
9 Fox to you and others dated October 16, 1997. Do you see
10 that?
11 A. I do.
12 Q. And it says that Intel has backed down to defcon 2.
13 A. Yeah.
14 Q. What does that mean to you, sir?
15 A. No idea. It's probably something to do with
16 whenever things go well with Intel, somebody uses reverse
17 hyperbole.
18 Q. Okay. And in this reverse hyperbole, Mr. Pat Fox
19 reports that Intel's agreed to 90 percent of what Microsoft
20 wants?
21 A. That's what it says in the e-mail.
22 Q. Was that your understanding at the time, sir?
23 A. I don't remember this episode very specifically.
24 Q. Who was Pat Fox?
25 A. Don't know.

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1 Q. And he goes on to say, this is a result of their
2 meeting with Andy this morning.
3 A. Who are they?
4 Q. Well, that's my question. Who are they?
5 MR. DOUGLAS: Objection. Form and foundation.
6 A. There's something funny here because in the second
7 sentence they appears to be Intel. Oh, maybe there was an
8 internal meeting at Intel. I'm confused about that.
9 Q. (BY MR. HOSIE) Wouldn't you read it that way, sir,
10 that there was an internal meeting at Intel with senior staff
11 of Andy Grove, and as a function of that meeting with Andy,
12 Intel agreed to 90 percent of what Microsoft wanted?
13 MR. DOUGLAS: Objection to the form.
14 A. I don't know.
15 Q. (BY MR. HOSIE) Is that how you would read it, sir?
16 MR. DOUGLAS: Objection. Form and foundation.
17 A. Let me look at the rest of this.
18 Q. (BY MR. HOSIE) If you could.
19 A. (Witness reading document.) Yeah, I think he means
20 that there's some -- a different they which is another set of
21 Intel people.
22 Q. Meeting with Andy Grove of Intel?
23 A. That's my guess, yes.
24 Q. Fair enough. And through this e-mail from Mr. Fox
25 you learn of this and you learn that Mr. Fox at least reports

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1 that Intel has now agreed to 90 percent of what Microsoft
2 wants; correct?
3 A. Well, yeah, apparently there was some notion
4 relative to low end things that we had a proposal in to them
5 that they still didn't like completely.
6 Q. And you were told that Intel no longer wants to do
7 an NC; correct?
8 A. I think it's much more a question of whether they
9 used that term. I think if you look at this e-mail thread,
10 Intel is still doing pretty much the notion of a low end
11 device that some people would call an NC, but as you'll see
12 in the e-mail thread, we didn't like them using the term NC
13 because they thought that would be confused with another
14 thing that didn't use an Intel processor.
15 So I think what he means here is that they won't
16 use that term, and then there's this whole thing about the
17 bill of materials. They're basically doing the same thing,
18 they're just not positioning it as an NC.
19 Q. The second bullet point, sir, they want to do a
20 terminal reference design, rich terminal, with WinCE as
21 preferred implementation; correct?
22 A. That's what it says.
23 Q. That's what you learned from this e-mail back in
24 October of 1997?
25 A. Apparently so, yes.

31 (Pages 118 to 121)

<p style="text-align: right;">Page 122</p> <p>1 Q. Then the next bullet point, their WPD -- I'm sorry,</p> <p>2 WB as in bravo, T, what's that an acronym for, sir?</p> <p>3 A. In this spectrum, this mail's talking about doing</p> <p>4 multiple points on the spectrum, one of which would have a</p> <p>5 browser in JVM and one of which wouldn't. The WBT appears to</p> <p>6 be the very truth, the thinnest, all the way at the end of</p> <p>7 the spectrum.</p> <p>8 Q. And by spectrum you're referring to what we earlier</p> <p>9 described as the continuum?</p> <p>10 A. Yeah, the thin versus thick continuum.</p> <p>11 Q. The thinnest of the thin would have no local</p> <p>12 processing, no browser, no JVM.</p> <p>13 A. That's what his mail says.</p> <p>14 Q. And that was good news from your perspective,</p> <p>15 Mr. Gates?</p> <p>16 MR. DOUGLAS: Objection to the form.</p> <p>17 A. There's always been devices in the market that are</p> <p>18 at that extreme end both from us and from our competitors,</p> <p>19 and so the fact that Intel -- the fact here that he's saying</p> <p>20 we're more in line on some activities, yeah, that's probably</p> <p>21 a good thing, but it's not a big thing.</p> <p>22 Q. (BY MR. HOSIE) Let's go to the e-mail right above.</p> <p>23 It's from Adam Taylor responding to Pat Fox and also sent to</p> <p>24 you.</p> <p>25 A. It's actually below it.</p>	<p style="text-align: right;">Page 124</p> <p>1 wouldn't ask you the question.</p> <p>2 A. Okay, good job.</p> <p>3 (Deposition Exhibit No. 22 was marked</p> <p>4 for identification.)</p> <p>5 Q. (BY MR. HOSIE) Let me show you what's marked as</p> <p>6 Exhibit 22, Mr. Gates. Counsel, copy for you. For the</p> <p>7 record, Exhibit 22 is another e-mail thread. This one is</p> <p>8 forwarding an article from info world and Eric Rudder whom I</p> <p>9 believe was your TA as of this time, forwards it to you,</p> <p>10 Mr. Gates, on November 25, 1997.</p> <p>11 A. Right.</p> <p>12 Q. Have you had a chance to read the e-mail from</p> <p>13 Mr. Rudder to you?</p> <p>14 A. I did.</p> <p>15 Q. And he's referring to this attached info world</p> <p>16 report, is he not?</p> <p>17 A. That's right.</p> <p>18 Q. And Mr. Rudder says to you, I know you -- that</p> <p>19 would be Mr. Gates you?</p> <p>20 A. Me.</p> <p>21 Q. Yeah, I know you, Bill Gates, talked about this</p> <p>22 with Gelsinger. That would be Pat Gelsinger of Intel?</p> <p>23 A. Right.</p> <p>24 Q. It's sad that Intel is delivering branded Java</p> <p>25 beans.</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. In a chronological sequence it's later in time and</p> <p>2 it's higher on the page as it's printed out here.</p> <p>3 A. Oh, I'm sorry, I was going in the wrong direction.</p> <p>4 Q. Yeah. So you're now looking at the e-mail from</p> <p>5 Adam Taylor to Pat Fox and you and others?</p> <p>6 A. That's right.</p> <p>7 Q. And he says, Adam Taylor -- do you know Adam?</p> <p>8 A. No.</p> <p>9 Q. Mr. Taylor says, great work turning them around,</p> <p>10 Pat, with thanks to Bill's mail, I suspect.</p> <p>11 What mail is that, Mr. Gates?</p> <p>12 A. I'm not sure.</p> <p>13 MR. DOUGLAS: Objection to form and foundation.</p> <p>14 Q. (BY MR. HOSIE) Don't you think it could be that</p> <p>15 October e-mail where you say, gee, I'm not sure why you all</p> <p>16 think cheap clients are a good thing but, you know,</p> <p>17 incidentally, we can ship everything in Sun byte codes in six</p> <p>18 months?</p> <p>19 MR. DOUGLAS: Objection to form, plus you're asking</p> <p>20 him to speculate.</p> <p>21 A. What was the date of that e-mail?</p> <p>22 Q. (BY MR. HOSIE) It was slightly earlier in October.</p> <p>23 A. I don't know. It would just be speculation. If</p> <p>24 the date was after I'd speculated one way,</p> <p>25 Q. Fair enough. Mr. Gates, if the date were later</p>	<p style="text-align: right;">Page 125</p> <p>1 A. He's sad.</p> <p>2 Q. Yeah. Then he goes on to say, even if they had a</p> <p>3 commitment, in quotes, this is still kind of an odd</p> <p>4 announcement. Now, what commitment is he referring to here,</p> <p>5 sir?</p> <p>6 MR. DOUGLAS: Objection. Form and foundation.</p> <p>7 Q. (BY MR. HOSIE) I'll rephrase. Mr. Gates, isn't it</p> <p>8 true that Intel made a commitment to Microsoft at about this</p> <p>9 time that it would drop its Java work including JMF except as</p> <p>10 it had preexisting commitments to companies?</p> <p>11 MR. DOUGLAS: Same objection.</p> <p>12 Q. (BY MR. HOSIE) Is that not true, sir?</p> <p>13 A. Intel chose to do what whatever they chose to do in</p> <p>14 this area. There was never anything where there was an</p> <p>15 agreement with us about what they would or wouldn't do.</p> <p>16 Q. My question, sir, isn't it true that Intel made you</p> <p>17 a commitment that they would drop JMF and other Java work</p> <p>18 except to the extent they had preexisting commitments to</p> <p>19 companies?</p> <p>20 A. No.</p> <p>21 MR. DOUGLAS: And same objections.</p> <p>22 Q. (BY MR. HOSIE) Do you recall talking with</p> <p>23 Gelsinger about that kind of commitment, sir?</p> <p>24 A. No. You could use the word commitment in many</p> <p>25 different ways.</p>

32 (Pages 122 to 125)

<p style="text-align: right;">Page 126</p> <p>1 Q. Well, let me rephrase that. You see the word 2 commitment in Mr. Rudder's mail to you? 3 A. I do. 4 Q. And he uses it in quotes, does he not? 5 A. Right. 6 Q. And he says, I know you talked about this with 7 Gelsinger; correct? 8 A. I think this refers to the general question of the 9 multimedia work at Intel. 10 Q. What was said in your conversation with Gelsinger? 11 A. I don't have any specific recollection, but I've 12 been in many meetings with Pat Gelsinger about various 13 software topics including video Codecs and realtime 14 activities, all sorts of things. 15 Q. Did you not have a conversation with Mr. Gelsinger 16 where he said, we'll make the commitment to drop Java in JMF 17 except insofar as we have preexisting commitments to 18 customers? 19 MR. DOUGLAS: Objection to form and foundation. 20 A. Intel never made any such commitment to us. 21 Q. (BY MR. HOSIE) You never had an agreement with 22 Intel, sir, along those lines? 23 MR. DOUGLAS: Same objection. 24 A. They made their plans, we made our plans. 25 Q. (BY MR. HOSIE) Intel is a rational economic</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Did you know him? 2 A. Yes. 3 Q. This e-mail reports that Eric Engstrom has done a 4 deal with Intel. Were you aware that Eric Engstrom had done 5 a deal with Intel? 6 MR. DOUGLAS: Objection. Form and foundation. The 7 witness didn't even receive a copy of this. 8 A. I know at one time there was discussion around an 9 MOU with Intel, and I don't think we ever reached a deal, but 10 I know there was some draft discussion about some graphics- 11 related work. 12 Q. (BY MR. HOSIE) Sir, he goes on to say, Eric 13 Engstrom has done a deal with them and we agreed that they 14 could complete the work they're already doing. 15 Does that refresh your recollection about the 16 commitment that Intel made you? 17 MR. DOUGLAS: Same objections. 18 A. Intel did not make a commitment to stop doing 19 something, not that I was party to or involved with. It 20 points out, apparently when this info world thing came out, I 21 said it wasn't a big deal. 22 Q. (BY MR. HOSIE) And that's because you knew that 23 Intel had agreed not to do an NC and had agreed to basically 24 drop its support for Java, specifically Java Media Framework; 25 correct?</p>
<p style="text-align: right;">Page 127</p> <p>1 enterprise, is it not, sir? 2 A. Imperfect. 3 Q. As are so many of us, but generally speaking, you 4 would view Intel as a rational economic enterprise, would you 5 not? 6 MR. DOUGLAS: Objection to the form. 7 A. I'm not sure what you mean by that. Intel 8 certainly does things that I think have been mistakes. 9 Q. (BY MR. HOSIE) As has Microsoft from time to time? 10 A. Absolutely. I can give you more examples of that. 11 Q. Do you think a rational economic company would 12 ignore threats from Microsoft? 13 MR. DOUGLAS: Objection to the form. Foundation. 14 A. I'm not sure how to respond to a hypothetical. If 15 you have a specific set of facts I'll be glad to comment on 16 it. 17 (Deposition Exhibit No. 23 was marked 18 for identification.) 19 Q. (BY MR. HOSIE) Let me show you what's been marked 20 as Exhibit 23. Sir, Exhibit 23 is another e-mail string. 21 I'm only going to ask you about the first e-mail which is 22 referencing the same info world article. 23 A. Okay. 24 Q. Who is Eric Engstrom? 25 A. He worked in a group at Microsoft.</p>	<p style="text-align: right;">Page 129</p> <p>1 MR. DOUGLAS: Objection. Form and foundation. 2 A. This is where Intel's shipping Java Media 3 Framework, so I think you're a little confused. So this is 4 actually putting it into the marketplace. 5 Q. (BY MR. HOSIE) Right, and that act prompts this 6 e-mail string where people at Microsoft said, wait a second, 7 we have a deal, and then others say no, no, the deal allowed 8 them to finish preexisting commitments. And it's that very 9 deal, Mr. Gates, that you deny, is that not true, sir? 10 MR. DOUGLAS: Objection to form and foundation. 11 A. You're mischaracterizing this e-mail. 12 (Deposition Exhibit No. 24 was marked 13 for identification.) 14 Q. (BY MR. HOSIE) Let me show you Exhibit 24. This 15 is another e-mail dated December 1, 1997. I'm going to ask 16 only about the e-mail on the top from Russell Barck of Intel 17 to Marshall Brumer of Microsoft. Mr. Barck says, Marshall, 18 my understanding of the original agreement was that we would 19 stop new evangelism efforts but would continue to support 20 existing customer commitments. As far as I can tell, this is 21 one of them, referring to the same info world article; 22 correct? 23 MR. DOUGLAS: Objection to the form and foundation. 24 He didn't refer to the document. 25 A. I'm not going to do this.</p>

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<p>Page 130</p> <p>1 Q. (BY MR. HOSIE) Wasn't that the deal, sir?</p> <p>2 A. No.</p> <p>3 MR. DOUGLAS: Same objection. No foundation.</p> <p>4 MR. HOSIE: I'd like to take a brief break off the</p> <p>5 record, if we might.</p> <p>6 MR. BURT: Where are we on time?</p> <p>7 VIDEO OPERATOR: The time is 4:17 p.m. We'll be</p> <p>8 taking a break in testimony.</p> <p>9 (Recess taken.)</p> <p>10 (Deposition Exhibit No. 25 was marked</p> <p>11 for identification.)</p> <p>12 VIDEO OPERATOR: The time is 4:23 p.m. We're now</p> <p>13 back on the record.</p> <p>14 Q. (BY MR. HOSIE) Mr. Gates, we took a break. With</p> <p>15 the benefit of the break, is there any aspect of your</p> <p>16 testimony earlier this afternoon you'd like to change, modify</p> <p>17 or otherwise amend?</p> <p>18 A. No.</p> <p>19 Q. I've marked as our next in order Exhibit No. 25.</p> <p>20 It's an e-mail thread again. I'm going to be focusing on a</p> <p>21 e-mail from Bob Herbold to you, amongst many others, dated</p> <p>22 February 15, 1998.</p> <p>23 A. Right.</p> <p>24 Q. And in it Mr. Herbold is recounting a conference</p> <p>25 call that he had with Dennis Carter, VP of marketing of</p>	<p>Page 131</p> <p>1 Intel, and Russ Barck of Intel, is he not, sir?</p> <p>2 A. Right. Those are marketing people.</p> <p>3 Q. Right. Halfway down the page there's a paragraph</p> <p>4 with the heading Java. Do you see that?</p> <p>5 A. Uh-huh.</p> <p>6 Q. And this says that Charles Fitzgerald -- he was a</p> <p>7 Microsoft guy?</p> <p>8 A. Exactly.</p> <p>9 Q. Is talking with Barbara Dawson of Intel?</p> <p>10 A. It says of Intel there.</p> <p>11 Q. Do you know Barbara?</p> <p>12 A. No.</p> <p>13 Q. Barbara Dawson of Intel on an almost daily basis</p> <p>14 and we seem to have good agreement here. As long as we're</p> <p>15 talking native with respect to Java, both parties are happy.</p> <p>16 Dennis reiterated once again that the Java Media Framework</p> <p>17 activity between Sun and Intel is very, very low priority and</p> <p>18 they expect it to die a natural death.</p> <p>19 Do you recall learning in February 1998 that Intel</p> <p>20 had communicated to Microsoft that Intel was letting JMF die?</p> <p>21 MR. DOUGLAS: Objection to the form and foundation.</p> <p>22 A. It says they expect it to die.</p> <p>23 Q. (BY MR. HOSIE) A natural death. Did you recall</p> <p>24 learning that, sir?</p> <p>25 A. I don't recall the specific e-mail, no.</p>	<p>Page 132</p> <p>1 Q. Do you recall learning the fact that as of</p> <p>2 February, Intel had assured Microsoft that Intel was letting</p> <p>3 JMF die a natural death?</p> <p>4 MR. DOUGLAS: Same objection.</p> <p>5 A. I don't see that here.</p> <p>6 Q. (BY MR. HOSIE) My question, sir. Do you recall</p> <p>7 hearing at or about the time of this e-mail that Intel had</p> <p>8 assured Microsoft that Intel had made its JMF work a very,</p> <p>9 very low priority?</p> <p>10 MR. DOUGLAS: Objection. Form and foundation.</p> <p>11 A. There's nothing in here about assurance. It says</p> <p>12 they expect it to die a natural death. And then the next</p> <p>13 sentence says, there was general agreement that Netscape's</p> <p>14 disinvestment in Java certainly puts Java at the crossroads.</p> <p>15 And so apparently something Netscape is doing is causing</p> <p>16 certain Java things to be less popular.</p> <p>17 Q. (BY MR. HOSIE) Well, here's a question I have,</p> <p>18 Mr. Gates. Why is Intel sharing this kind of confidential</p> <p>19 business information with Microsoft anyway?</p> <p>20 MR. DOUGLAS: Objection. Form, foundation, and</p> <p>21 you're asking him to speculate.</p> <p>22 A. What do you mean confidential business information?</p> <p>23 I mean, certainly we shared each other's secret product plans</p> <p>24 with each other under non-disclosure on a very regular basis.</p> <p>25 Q. (BY MR. HOSIE) Technical engineering information</p>	<p>Page 133</p> <p>1 under NDA?</p> <p>2 A. Among other things.</p> <p>3 Q. Right. But is it your experience in business that</p> <p>4 it's normal for companies to share their confidential</p> <p>5 business plans with other companies?</p> <p>6 MR. DOUGLAS: Objection to the form and foundation.</p> <p>7 A. Some business plans are shared.</p> <p>8 Q. (BY MR. HOSIE) And some are not?</p> <p>9 A. And some are not.</p> <p>10 (Deposition Exhibit No. 26 was marked</p> <p>11 for identification.)</p> <p>12 Q. (BY MR. HOSIE) Let me show you what's been marked</p> <p>13 as Exhibit 26, sir. Not to catch you off guard, Mr. Gates,</p> <p>14 not that I think I could, but we're turning the clock back in</p> <p>15 time earlier to September 1996 with this e-mail. I'm going</p> <p>16 to be asking you about your e-mail in the middle of the page</p> <p>17 to Aaron Contorer.</p> <p>18 A. Right.</p> <p>19 Q. What's the subject of your e-mail, sir?</p> <p>20 A. It's a forward of a mail -- I guess -- well,</p> <p>21 there's a long chain here and the subject line gets changed</p> <p>22 during the chain. One of them is think week.</p> <p>23 Q. Who is Adam Bosworth?</p> <p>24 A. He was a product management type person.</p> <p>25 Q. He's writing here about Java to you in the mail to</p>
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34 (Pages 130 to 133)

<p style="text-align: right;">Page 134</p> <p>1 which you immediately respond?</p> <p>2 A. His view of Java in 1996, that's right.</p> <p>3 Q. And you say, this scares the hell out of me;</p> <p>4 correct?</p> <p>5 A. Yeah, I say that -- it's not so much about Java,</p> <p>6 it's about what will our OS/2 offer the Java client</p> <p>7 applications, that is, how will we distinguish ourselves as</p> <p>8 being the best OS/2 to run Java client applications, clearly</p> <p>9 talking about the fact there will be a lot of Java client</p> <p>10 applications.</p> <p>11 Q. And why did that scare the hell out of you,</p> <p>12 Mr. Gates?</p> <p>13 A. Well, whatever the new popular class of</p> <p>14 applications are, we need to make sure our operating system</p> <p>15 is providing the most value to those. And since there was a</p> <p>16 trend at this time, later -- many aspects of Java didn't pan</p> <p>17 out to be as popular as we and others thought they would, but</p> <p>18 at this time it looked like there would be a lot of Java</p> <p>19 client applications code and we wanted to make sure our OS/2</p> <p>20 ran it best and we wanted to move very quickly to do that.</p> <p>21 Q. You mentioned several times today a continuum or a</p> <p>22 spectrum of devices.</p> <p>23 A. Right.</p> <p>24 Q. Isn't it true, sir, that you personally believed</p> <p>25 that it was essential that all the devices across that</p>	<p style="text-align: right;">Page 136</p> <p>1 represented strategic ground that you needed to capture?</p> <p>2 A. What I said is that -- I don't know anything about</p> <p>3 strategic ground. We created a product to compete in that</p> <p>4 space. We actually overestimated the revenue potential out</p> <p>5 of that space.</p> <p>6 Q. We've been talking hitherto today about the</p> <p>7 platform challenge represented by NC and Java runtime</p> <p>8 environments. Isn't it true, sir, that by 1997 you were</p> <p>9 concerned about another kind of platform challenge,</p> <p>10 specifically that arising out of multimedia delivery and</p> <p>11 playback?</p> <p>12 MR. DOUGLAS: Objection to the form. Vague and</p> <p>13 overbroad.</p> <p>14 A. No.</p> <p>15 Q. (BY MR. HOSIE) You don't recall believing that you</p> <p>16 were in a platform battle with RealNetworks in 1997?</p> <p>17 A. We were competing with Real but they didn't offer a</p> <p>18 complete operating system, no.</p> <p>19 Q. You weren't concerned that if Real won the</p> <p>20 multimedia format war that it would have the exclusive</p> <p>21 product for multimedia playback and delivery?</p> <p>22 MR. DOUGLAS: Objection to the form. Vague and</p> <p>23 ambiguous and no foundation.</p> <p>24 A. You're saying if they had 100 percent share would</p> <p>25 they have 100 percent share?</p>
<p style="text-align: right;">Page 135</p> <p>1 spectrum rely on a single set of APIs and that those be</p> <p>2 Microsoft APIs?</p> <p>3 MR. DOUGLAS: Objection to form and foundation.</p> <p>4 A. The world has always been heterogenous, that is,</p> <p>5 there have been machines from Apple, set top boxes, phones.</p> <p>6 There never has been or will there ever be complete</p> <p>7 uniformity of devices.</p> <p>8 (Deposition Exhibit No. 27 was marked</p> <p>9 for identification.)</p> <p>10 Q. (BY MR. HOSIE) I'd like to show you Exhibit 27.</p> <p>11 These are Judge Jackson's findings of facts. I'm going to</p> <p>12 point you to one specific, Page 23, and it's finding 112. If</p> <p>13 you could turn there, Mr. Gates. It's page 23, finding 112.</p> <p>14 A. Okay, go ahead.</p> <p>15 Q. This finding says, at the end of May 1997, Gates</p> <p>16 told a group of Microsoft executives that multimedia</p> <p>17 streaming represented strategic ground that Microsoft needed</p> <p>18 to capture.</p> <p>19 Is that true, sir? Did you do that?</p> <p>20 A. I know at about this time we talked about being one</p> <p>21 of the companies that offered multimedia streaming</p> <p>22 capabilities, and we did invest in creating a product that</p> <p>23 competed in that area. We were one of many companies who</p> <p>24 offered products in that area.</p> <p>25 Q. And why did you feel multimedia streaming</p>	<p style="text-align: right;">Page 137</p> <p>1 Q. (BY MR. HOSIE) No, if they won the format battle.</p> <p>2 Let me start by asking you, do you recall that you were in a</p> <p>3 format battle with RealNetworks?</p> <p>4 MR. DOUGLAS: Same objection. Form, foundation,</p> <p>5 vague and ambiguous.</p> <p>6 A. There are many aspects to our competition with</p> <p>7 RealNetworks. They support their own formats, they support</p> <p>8 our formats, they support industry standard formats. We --</p> <p>9 the actual revenue competition is for software</p> <p>10 implementations, but one of the features of those software</p> <p>11 implementations is different video formats that we support.</p> <p>12 And we certainly invented new video formats that we</p> <p>13 positioned as solving problems for customers.</p> <p>14 (Deposition Exhibit No. 28 was marked</p> <p>15 for identification.)</p> <p>16 Q. (BY MR. HOSIE) Sir, I've marked as Exhibit 28 an</p> <p>17 e-mail with the subject line of review with Bill G on</p> <p>18 2/26/99, and attached to that is a presentation deck that has</p> <p>19 the title Windows Media Technologies Bill G review, 2/26/99.</p> <p>20 Do you recall participating in a Windows Media</p> <p>21 Technologies review in late February 1999, sir?</p> <p>22 A. Not in particular, but it appears that I did.</p> <p>23 Q. And along with Steve Ballmer and Paul Maritz?</p> <p>24 A. Where do you see that they participated?</p> <p>25 Q. First line of the e-mail.</p>

35 (Pages 134 to 137)

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1 A. Yep, the e-mail recounts that Steve B and Paul MA
2 were there.
3 Q. Senior guys?
4 A. Very senior.
5 Q. Extremely. As of course were and are you?
6 A. I try. Every year I get more senior.
7 MR. HOSIE: As do we all.
8 MR. DOUGLAS: And we're also getting to three hours
9 and we need to wrap this up.
10 Q. (BY MR. HOSIE) Do you recall this review, sir?
11 A. Not in particular, but it appears I attended a
12 review.
13 Q. If you could turn to the presentation deck. The
14 presentation deck is internal Microsoft vernacular for
15 PowerPoint slides?
16 A. Well, we just called them PowerPoint slides. I
17 mean, it's actually our trademark so I think we love calling
18 it PowerPoint slides.
19 Q. And these are PowerPoint slides, are they not, sir?
20 A. Absolutely. They appear to be PowerPoint slides
21 that at least the mail suggests these were slides presented
22 at some kind of product review.
23 Q. If you could turn to the page that has 5 in the
24 lower right. The title is platform battle is similar to
25 Netscape but different playbook. Are you there?

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1 A. I don't know where you are. Oh, gosh, I turned
2 right to it.
3 Q. Serendipity, or was that just purely perspicacious.
4 MR. DOUGLAS: Do we have a question?
5 MR. HOSIE: We are building to a question, slowly
6 but relentlessly.
7 Q. (BY MR. HOSIE) Sir, the title is platform battle
8 is similar to Netscape but different playbook. Did you
9 personally view the platform battle with Real as being
10 similar to the browser battle?
11 A. No.
12 Q. So this is a statement that you would disagree
13 with?
14 A. This is a group presenting the work they're doing
15 as being as important as something else, and that's very
16 typical inside Microsoft.
17 Q. The next page, what it means to lose.
18 A. Probably more of the same. Let's take a look.
19 Q. Let's take a look. And you can tell me what you
20 agree with and what you disagree with. What it means to
21 lose. You read that as what it means to lose the multimedia
22 platform battle?
23 A. No, I'm not sure. I'm not sure if this is about
24 formats or servers or clients.
25 Q. Or all of the above?

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1 A. No, I don't think it's about all of the above.
2 MR. DOUGLAS: Do we have a substantive question?
3 Because we are past three hours.
4 Q. (BY MR. HOSIE) What it means to lose. The first
5 consequence of losing is identified as Real, Apple and MP3
6 phenomenon provide the required multimedia runtime on Windows
7 and WinCE. Do you see that, sir?
8 A. I don't think that's a consequence of losing, is
9 it?
10 Q. Well, what does that language mean to you, sir?
11 A. It's a point on the PowerPoint slide.
12 Q. Well, what does it mean to you, sir? You were at
13 this presentation, it's got your name, 2/26/99, Bill G review
14 on the bottom left. You sat through this --
15 A. It's a good thing for people to provide popular
16 multimedia software on Windows. So when it says Real, Apple
17 and MP3 provide multimedia runtime on Windows, as opposed to
18 them not providing it on Windows, that's a good thing.
19 Q. But if they own the proprietary standard, that
20 means that effectively they're going to control those APIs?
21 MR. DOUGLAS: Objection to the form.
22 A. Their work is proprietary to them, our work is
23 proprietary to us. There's no distinction there. The
24 relative popularity of their software would be useful to
25 them, the relative popularity of ours would be helpful to us.

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1 But this is just about the media piece, it's not about
2 operating systems.
3 Q. (BY MR. HOSIE) I understand. Weren't you
4 concerned, though, that if -- well, strike that, let me ask a
5 different question.
6 In 1997 you personally believed that multimedia was
7 going to become an increasingly important part of the PC
8 experience going forward; fair?
9 MR. DOUGLAS: Objection to the form.
10 A. We thought that people because of the increased
11 bandwidth and the software improvements that we and other
12 people are making, would spend more time doing multimedia.
13 Q. (BY MR. HOSIE) Okay. And you were concerned that
14 Microsoft not get locked out of that space, if you will, by
15 having Real's proprietary format become the de facto
16 standard; also fair?
17 MR. DOUGLAS: Objection to the form.
18 A. Well, there's many different formats. You're never
19 going to have a case where one format is totally popular,
20 because it's trivial on a PC to have Codecs for any number of
21 formats. In fact, today on a PC, I think you have Codecs
22 typically for 20 or 30 formats, so you're not going to have
23 one format eliminating the other formats.
24 Q. (BY MR. HOSIE) Content will be encoded in
25 particular formats; correct?

36 (Pages 138 to 141)

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1 A. Many different formats.
 2 Q. But if one format becomes the de facto standard,
 3 that's going to be what the content is encoded in; correct?
 4 A. No, because you have so many tradeoffs. I mean,
 5 it's so trivial to download a Codec and you have so many
 6 tradeoffs in terms of computation power, network bandwidths,
 7 screen resolution that there's more and more Codecs all the
 8 time. As time has gone on, the variety of multimedia formats
 9 has simply increased and so no single format has any
 10 particular overriding position relative to the other formats.
 11 Q. This presentation slide says at the very end of
 12 this page, Real's player becomes the browser of choice.
 13 That's one consequence of losing the multimedia platform
 14 battle; correct?
 15 MR. DOUGLAS: Objection to form and foundation.
 16 A. No, this is talking about multimedia. What they're
 17 seeing is that Real's -- when people wanted to view
 18 multimedia, if Real is super successful then they'd be using
 19 Real software to view multimedia.
 20 MR. DOUGLAS: What is the time?
 21 VIDEO OPERATOR: One moment, please. Elapsed time
 22 is 3 hours and five minutes, sir.
 23 MR. DOUGLAS: Mr. Hosie, now I think if you have
 24 any questions that relate to document retention, we need to
 25 move to those.

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1 MR. HOSIE: Well, I guess I'll continue on this
 2 until you tell me to stop.
 3 MR. DOUGLAS: I think I just did.
 4 MR. HOSIE: And you did it very graciously, Chuck.
 5 MR. DOUGLAS: I think you told the judge it would
 6 be three hours. We let you continue on.
 7 MR. HOSIE: Well, we won't quarrel right now, but I
 8 respect your request and I'll move on in the middle of the
 9 document.
 10 Q. (BY MR. HOSIE) Mr. Gates, I bet you don't know a
 11 lot about Microsoft's e-mail retention policies and
 12 practices?
 13 MR. DOUGLAS: Objection to the form.
 14 A. That's a very vague question, sir.
 15 Q. (BY MR. HOSIE) Okay, well, let me be more
 16 specific. Do you recall attending a meeting at Intel in 1995
 17 where you reported in substance that this antitrust thing
 18 will blow over but we may change our e-mail retention?
 19 MR. DOUGLAS: Objection. Form and foundation.
 20 A. You're talking about nine years ago?
 21 Q. (BY MR. HOSIE) Yes.
 22 A. I don't remember a specific meeting where that
 23 happened.
 24 Q. Do you remember ever saying that at an Intel
 25 meeting, that this antitrust thing will blow over but you

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1 might have to change e-mail retention policies at Microsoft?
 2 A. No.
 3 Q. All right, sir. In 1997, Microsoft promulgated a
 4 policy that e-mails should not be saved to servers subject to
 5 backup. Not to servers but servers subject to backup. Do
 6 you know anything about that policy?
 7 MR. DOUGLAS: Objection. Form and foundation. I
 8 think it mischaracterizes -- Mr. Gates, objection to the
 9 foundation as well because that mischaracterizes the company
 10 policy.
 11 Q. (BY MR. HOSIE) Sir, do you recall that at some
 12 point Microsoft promulgated a policy that e-mails should not
 13 be saved to servers subject to backup?
 14 MR. DOUGLAS: Same objection.
 15 A. I think you're going to have to explain better what
 16 you're talking about. That doesn't -- I can't parse that.
 17 Are you talking about mail servers?
 18 Q. (BY MR. HOSIE) No, not the Exchange servers, just
 19 the file servers.
 20 A. Exchange servers are mail servers, right?
 21 Q. Yes.
 22 A. Okay, and that --
 23 Q. And you also have file servers in addition to
 24 Exchange servers; correct?
 25 A. Yeah. Those are among the many, many types of

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1 servers we have.
 2 Q. And are you aware that your e-mail Exchange servers
 3 are -- the backup tapes are written over every 28 days?
 4 MR. DOUGLAS: Same objection. Form and foundation.
 5 A. I don't know.
 6 Q. (BY MR. HOSIE) Are you aware of a policy at
 7 Microsoft that says do not save your e-mails to file servers
 8 subject to backup?
 9 MR. DOUGLAS: Same objection.
 10 A. I'm not sure, because mail's on your mail server.
 11 Q. (BY MR. HOSIE) Can't people archive in a PST file
 12 on a file server, sir?
 13 A. On a file server?
 14 Q. Yes.
 15 A. I don't think many people do that.
 16 Q. Well, haven't you personally done that from time to
 17 time, sir?
 18 A. No.
 19 Q. Do you recall asking your TA in 1997 or '98, Aaron
 20 Contorer, to recall some backup tapes of e-mail and delete
 21 some e-mails from them?
 22 MR. DOUGLAS: Same objection. Form and foundation.
 23 A. No.
 24 Q. (BY MR. HOSIE) All right, sir. But going back to
 25 my previous question, you know nothing about the policy of not

37 (Pages 142 to 145)

Bill Gates - ROUGH; August 26, 2004

<p style="text-align: right;">Page 146</p> <p>1 saving e-mail to servers but only those servers subject to 2 backup? 3 MR. DOUGLAS: Objection. Plus it's overbroad and 4 vague. 5 A. Again, what you're saying doesn't parse. 6 Q. (BY MR. HOSIE) Doesn't make sense to you? 7 A. No. What you're saying just doesn't make sense. 8 Look, if you want to go through the different kinds of 9 servers and the policies you can tell me things and I'll say, 10 hey, I'm not aware of the policies. But what you're saying 11 is just -- the sentence doesn't make sense. 12 Q. Why? What's confusing you about it? 13 A. Because you've got to talk about different servers. 14 Mail servers is where most of the mail is. 15 Q. Right. And there are file servers to which people 16 have assigned shares; correct? 17 A. File shares. 18 Q. Yes. And people can archive with a dot PST prefix 19 archived e-mail to those file shares; correct? 20 A. I'm not -- technologically, yes. I don't think 21 many people do that, I don't know why they would. But yes, 22 technologically one could do that. 23 Q. And for those dot PST archived files, are you aware 24 of a policy at Microsoft that said thou shalt not do that to 25 servers subject to backup?</p>	<p style="text-align: right;">Page 148</p> <p>1 A. No, but I'm not surprised. 2 Q. Why does that not surprise you? 3 A. If you accidentally delete e-mail, that gives you 4 plenty of time to remember that you did. 5 Q. What is Microsoft's policy on e-mail retention, 6 please? 7 MR. DOUGLAS: Objection. Form and foundation. 8 A. People keep whatever there's a business requirement 9 for or a legal requirement for past some date. 10 Q. (BY MR. HOSIE) How -- and what is that date? Is 11 it one month, six months, a year, do you know? 12 MR. DOUGLAS: Same objection. 13 A. I'm not sure. 14 Q. (BY MR. HOSIE) Now, are you aware that people at 15 Microsoft have in fact saved under a dot PST prefix e-mails 16 to file servers? 17 MR. DOUGLAS: Same objection. 18 A. No, but I know it's technologically possible. 19 Q. (BY MR. HOSIE) And do you know anything about a 20 policy that directs Microsoft employees not to save mail on 21 servers subject to backup? 22 A. No. 23 Q. In 1997 Microsoft's internal policy guidelines said 24 that that policy was due to legal reasons. Do you know 25 anything about the legal reasons underlying that policy?</p>
<p style="text-align: right;">Page 147</p> <p>1 MR. DOUGLAS: Objection. Form and foundation. 2 A. I don't know what you mean subject to backup. 3 Q. (BY MR. HOSIE) Ah, backup retention? 4 A. I don't know what you mean. You're saying that -- 5 I mean, the fact is, I don't know anything about this whole 6 area. You're not even getting to the point where I can say I 7 don't know what the policy is. Are you talking about that 8 people don't do it or -- what are you saying? You're saying 9 they don't do it? 10 Q. No. Mr. Gates, people in fact did archive e-mails 11 in dot PST files even though there was a policy saying don't 12 do it to servers subject to document retention backup via 13 tape. And my question is do you know about that policy? 14 MR. DOUGLAS: Objection. Form and foundation. 15 A. I think you're mixing up backup and archiving. 16 Q. (BY MR. HOSIE) Well, on this one, sir, we can take 17 all the time it takes, so let me go slowly and carefully. 18 A. Okay. 19 Q. Microsoft has Exchange servers for its e-mail; 20 correct? 21 A. Those are our mail servers, yes. 22 Q. Are those e-mail servers backed up? 23 A. Under some policy, yes. 24 Q. Are you aware that the backup takes are based 25 every 28 days?</p>	<p style="text-align: right;">Page 149</p> <p>1 MR. DOUGLAS: Form and foundation. 2 A. I don't have a foundation for that. 3 Q. (BY MR. HOSIE) Fair enough. And if you don't 4 know, Mr. Gates, say I don't know. 5 A. I don't have a foundation for the whole sentence. 6 Q. And, sir, are you aware that at some point 7 Microsoft programmed its backup system to delete e-mails that 8 had been archived? 9 MR. DOUGLAS: Objection. Form and foundation. 10 A. No. 11 Q. (BY MR. HOSIE) Who sets e-mail retention policy at 12 Microsoft? 13 A. Some combination of business people and legal 14 people and technical people. 15 (Deposition Exhibit No. 29 was marked 16 for identification.) 17 Q. (BY MR. HOSIE) I'd like to show you what's been 18 marked as Exhibit 29, sir. 19 A. (Witness reading document.) Okay. I'm not copied 20 on this. 21 Q. To your understanding, was it one of Mr. Allchin's 22 job responsibilities to police Microsoft's e-mail policies? 23 MR. DOUGLAS: Objection to the form. 24 A. He's in the management chain but it's not his 25 specific responsibility.</p>

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<p style="text-align: right;">Page 150</p> <p>1 Q. (BY MR. HOSIE) Do you have any explanation for why</p> <p>2 Mr. Allchin was telling Windows division employees not to be</p> <p>3 foolish and not to archive e-mail in January of 2000?</p> <p>4 MR. DOUGLAS: Objection. Form and foundation.</p> <p>5 A. It appears somebody kept so much e-mail that it got</p> <p>6 corrupted and it's not clear who that's from. And then Brian</p> <p>7 appears to say, I've never seen this before. Hey, if you</p> <p>8 keep that much your e-mail box is going to get big and</p> <p>9 unreliable. And then Jim talks about his view.</p> <p>10 Q. (BY MR. HOSIE) And Mr. Allchin says that it was</p> <p>11 company policy to purge e-mail after 30 days. Was that the</p> <p>12 company's policy?</p> <p>13 MR. DOUGLAS: Objection to form and foundation.</p> <p>14 Mischaracterizes the document.</p> <p>15 A. Certainly the policy always said that you retain</p> <p>16 things that there's a business reason to keep or a legal</p> <p>17 reason to keep, and, you know, those things we keep</p> <p>18 indefinitely.</p> <p>19 Q. (BY MR. HOSIE) A business reason to keep?</p> <p>20 A. Or a legal reason.</p> <p>21 Q. And by business reason what do you mean?</p> <p>22 A. Things that you want to keep around.</p> <p>23 Q. Things that might be important for future</p> <p>24 reference, that kind of thing?</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 152</p> <p>1 55,000 or so Microsoft employees now?</p> <p>2 A. Around that, yes.</p> <p>3 Q. And any one of them could theoretically get online</p> <p>4 and read the --</p> <p>5 A. Well, we should check to make sure. That's my</p> <p>6 belief, my guess, though, because I haven't gone and actually</p> <p>7 checked that. I know my mail is handled -- it's archived</p> <p>8 every month.</p> <p>9 Q. Well, let's talk about your mail, then. When did</p> <p>10 that begin, the policy and practice of keeping every single</p> <p>11 Bill Gates mail?</p> <p>12 MR. DOUGLAS: Objection to the form.</p> <p>13 A. A long, long time ago when there was some type of</p> <p>14 ongoing criteria that, you know, ongoing mail would be --</p> <p>15 within the scope of some request. Many, over five years ago.</p> <p>16 We can find out exactly when. But it was when requests came</p> <p>17 in that had an ongoing nature.</p> <p>18 Q. (BY MR. HOSIE) And mechanically how does the</p> <p>19 preservation of your mail work, if you know?</p> <p>20 A. It goes to legal on a monthly basis.</p> <p>21 Q. So somebody from legal comes up and basically takes</p> <p>22 a dump from your mail archive?</p> <p>23 A. I think my assistant does the dump and then she --</p> <p>24 after she gets rid of personal e-mails, sends it over to</p> <p>25 legal. I'm not even sure it's a dump. Somehow, I don't know</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. And is Mr. Allchin's e-mail consistent with your</p> <p>2 understanding of that policy?</p> <p>3 MR. DOUGLAS: Objection. Form and foundation, it's</p> <p>4 overbroad.</p> <p>5 A. I haven't spoken with Jim about this. I think</p> <p>6 common sense says that this is about the e-mail that you</p> <p>7 don't need longer for the business or legal requirements.</p> <p>8 But unless you put that in there, he's misstating our policy.</p> <p>9 Q. (BY MR. HOSIE) Where would you go to check what --</p> <p>10 you said, I'd have to go check what the policy is. Where</p> <p>11 would you go to do that?</p> <p>12 A. The employee handbook.</p> <p>13 Q. What's the employee handbook?</p> <p>14 A. It's an online document.</p> <p>15 Q. And it has, amongst other things, document</p> <p>16 retention policies?</p> <p>17 A. I think if you did a search on that page you'd</p> <p>18 eventually find something.</p> <p>19 Q. That's a handbook that's readily available to all</p> <p>20 Microsoft employees online here?</p> <p>21 A. Yeah, I believe you can search online. I haven't</p> <p>22 done this. My e-mail is retained on regular monthly basis</p> <p>23 which is why, you know, I don't go looking up at the general</p> <p>24 online policy. Mine gets archived every month.</p> <p>25 Q. This employee handbook, I mean, what there are</p>	<p style="text-align: right;">Page 153</p> <p>1 the technical approach that's used, but the file is sent to</p> <p>2 legal on a monthly basis.</p> <p>3 Q. And is that a copy of the file or the original? I</p> <p>4 mean, do you maintain a separate copy yourself?</p> <p>5 A. Well, there's the active copy.</p> <p>6 Q. One moment, please.</p> <p>7 Sir, if you wanted to find e-mails from, say,</p> <p>8 October of 1997, what would you do?</p> <p>9 MR. DOUGLAS: Objection to the form. It's</p> <p>10 overbroad.</p> <p>11 A. My e-mails?</p> <p>12 Q. (BY MR. HOSIE) Sure.</p> <p>13 A. I'd go to legal.</p> <p>14 Q. Because they keep the complete historical set of</p> <p>15 Gates e-mails?</p> <p>16 A. That's my understanding. I mean, that they -- you</p> <p>17 know, subject -- the personal mail gets read by Christine,</p> <p>18 but other than that, yes.</p> <p>19 Q. And Christine is your executive assistant?</p> <p>20 A. Yeah, she's the current one.</p> <p>21 Q. Fair enough. Document retention notices. Do you</p> <p>22 know what a document retention notice is, Mr. Gates?</p> <p>23 A. Yes.</p> <p>24 Q. It's a letter on paper that says we've got this</p> <p>25 legal issue please preserve documents of the following</p>

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1 nature and category?

2 A. In our case it's generally transmitted through
3 e-mail, but yes.

4 Q. And you have received, I'm sure, numerous document
5 retention notices over the years?

6 A. Yes, sir.

7 Q. Have you ever received what I would call a release
8 from retention notice?

9 A. Rarely. I think recently I did get one. It was
10 for a legal matter that was so old it was unbelievable, but
11 in my case the policy of archiving my e-mail monthly just
12 keeps going on.

13 MR. HOSIE: Fair enough. Mr. Gates, I've kept you
14 here until 5:00 and I will pass the witness at this point.

15 MR. DOUGLAS: We have no questions. We will
16 reserve the right for the witness to read the transcript when
17 the deposition is completed.

18 VIDEO OPERATOR: One moment, please. I'll bring
19 the tape to a close and we'll go off the record. The number
20 of tapes used in today's deposition were two. This concludes
21 the deposition of Bill Gates. We are going off the record,
22 the time is 4:54 p.m.

23 (End of rough draft.)
24
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